

Volume 2

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable William H. Orrick, Judge

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
VS.)	NO. CR 15-582 WHO
)	
Adam Shafi,)	
)	
Defendant.)	
_____)	

San Francisco, California
Wednesday, August 29, 2018

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

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Official Reporter

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PROCEEDINGS

Wednesday - August 29, 2018

8:02 a.m.

P R O C E E D I N G S

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(The following proceedings were held in open court, outside the presence of the jury:)

THE COURT: Do we have a jury?

MR. HASIB: Your Honor, may we just have two minutes to make sure our computers are set up, and we'll call Ms. Butros in.

THE COURT: Okay. Be great to have them set up when we're ready to go.

MR. HASIB: I agree, Your Honor. Thank you.

(Pause.)

MR. HASIB: Yes, Your Honor. Thank you for your indulgence. We're ready.

Should I bring the witness out first?

THE COURT: Yes, please.

(Proceedings were heard in the presence of the jury:)

THE COURT: All right. Please be seated everybody.

Good morning, ladies and gentlemen. Welcome, and thank you for being prompt. We're going to continue with the testimony of Ms. Butros. We've moved the chairs around a little bit so that you're not sitting right on top of all the government's exhibits and things. So I hope this works for you.

BUTROS - DIRECT / HASIB

1 All right. Please proceed, Mr. Hasib.

2 **MR. HASIB:** Thank you, Your Honor.

3 **LINDA BUTROS,**

4 called as a witness for the Plaintiff, having been previously
5 duly sworn, testified further as follows:

6 **DIRECT EXAMINATION** (*continuing*)

7 **BY MR. HASIB:**

8 **Q.** Good morning again, Ms. Butros.

9 **A.** Good morning.

10 **Q.** Yesterday when we left off you had just listened to a
11 couple of calls that were marked as Exhibits 1 and 2.

12 **MR. HASIB:** And I may have neglected to do this
13 yesterday, Your Honor, but for the record we would formally
14 offer Exhibits 1 through 15 which are on that disk that
15 Ms. Butros identified yesterday into evidence.

16 **THE COURT:** All right.

17 **MR. MATTHEWS:** No objection, Your Honor.

18 **THE COURT:** They're admitted.

19 **MR. HASIB:** Thank you, Your Honor.

20 (Trial Exhibits 1-15 received in evidence)

21 **BY MR. HASIB:**

22 **Q.** Ms. Butros, I'd like to play a couple of other calls with
23 you this morning. First, a call marked Exhibit 7.

24 Ms. Yee, could you play the call marked Exhibit 7-001.

25 (Audio was starting but not reported.)

BUTROS - DIRECT / HASIB

1 **THE COURT:** Hang on just a sec, please.

2 **MR. HASIB:** Your Honor, may I approach the witness?

3 **THE COURT:** You may.

4 **MR. HASIB:** It's Exhibit No. 23, for the record, the
5 transcript. And Exhibit 7 the audio.

6 Would you go ahead and play Exhibit 7?

7 (Audio was played but not reported.)

8 **THE WITNESS:** I'm sorry. Could you make it a little
9 louder?

10 **MR. HASIB:** Ms. Yee, could you stop that for a moment?
11 I'm going to ask you to play that clip again from the
12 beginning, 7-001, the first clip.

13 Beg the Court's indulgence, Your Honor, for a moment.

14 Your Honor, may we use the court's speaker? It appears
15 ours are not functioning properly.

16 (Pause.)

17 **MR. HASIB:** I'm sorry, Your Honor. Having a small
18 technical difficulty.

19 **THE COURT:** I see that.

20 (Pause.)

21 **MR. HASIB:** Okay. I think we sorted that out. Ms.
22 Yee, could you play Exhibit 7-001 one more time.

23 (Audio was played but not reported.)

24 **BY MR. HASIB:**

25 **Q.** Ms. Butros, there was an Arabic word there on the

BUTROS - DIRECT / HASIB

1 transcript, *Halab*. What is "*Halab*"?

2 A. *Halab* is the Arabic word for Aleppo, Syria.

3 Q. Aleppo, Syria.

4 Ms. Yee, if you could pull up Exhibit 9-001.

5 And Mr. Reinke, if you could pull up the corresponding
6 transcript.

7 That's -- Exhibit No. 25 is the transcript and Exhibit No.
8 9 is the audio.

9 Ms. Yee, if you could play Exhibit 9-001.

10 (Audio was played but not reported.)

11 MR. HASIB: Stop there for a second, Ms. Yee.

12 BY MR. HASIB:

13 Q. Ms. Butros, there's a word there, *shahid*. What does the
14 Arabic word *shahid* mean in English?

15 A. Martyr.

16 (Audio was played but not reported.)

17 Q. Ms. Butros, if I could just ask you about a couple of
18 Arabic words that were heard in those clips. *Kuffar*, what does
19 that translate as?

20 A. Nonbelievers.

21 Q. And there was reference to *mujahid* and *mujahidin*?

22 A. *Mujahid* is the singular and it's *jihadist*. And *mujahidin*
23 is *jihadists* plural.

24 Q. What is the literal translation of *jihad*?

25 A. *Jihad*, depending on the context, it's a holy war or to

1 fight or to struggle.

2 Q. To struggle. Okay. Ms. Butros, did you -- changing
3 topics a little bit -- did you review a spreadsheet of some
4 Google search histories?

5 A. Yes, I did.

6 Q. And when did you do that?

7 A. Within this past week. A couple of days ago maybe.

8 Q. Did you also review a spreadsheet of some YouTube search
9 histories?

10 A. Yes. In the past, yes.

11 Q. And in your review of those documents, which are not yet
12 in evidence but I anticipate they will be, in your review of
13 those documents were there some Arabic words in those search
14 history spreadsheets?

15 A. Yes.

16 Q. Did you perform any translations of those Arabic words in
17 those spreadsheets?

18 A. Either I translated them -- yes. I translated them, yes.

19 Q. Did you provide those translations to anybody?

20 A. To you.

21 Q. And to Special Agent Chris Reinke?

22 A. Yes.

23 THE COURT: Mr. Hasib, let me interrupt you for just a
24 second. And I should have said this earlier.

25 You're going to hear a number of recordings during the

BUTROS - CROSS / MATTHEWS

1 course of the hearing. And it's the recordings that are in
2 evidence. The transcripts that are provided to you to follow
3 along is merely there to help you hear. But what the evidence
4 is is what is on the recordings themselves.

5 Okay. Go ahead.

6 **MR. HASIB:** Your Honor, no further questions for
7 Ms. Butros from the government.

8 **THE COURT:** All right. Mr. Matthews.

9 **MR. MATTHEWS:** Thank you, Your Honor.

10 **CROSS-EXAMINATION**

11 **BY MR. MATTHEWS:**

12 **Q.** Good morning, Ms. Butros.

13 **A.** Good morning.

14 **Q.** You got your college degree in accounting, correct?

15 **A.** Yes.

16 **Q.** And that was in 1997?

17 **A.** Yes.

18 **Q.** Which, if I remember you correctly, you joined the FBI in
19 2002.

20 **A.** Yes.

21 **Q.** What were you doing in that period between 1997 and 2002?

22 **A.** I worked -- while I was going to school I worked at a
23 travel agency down in southern California. And then after I
24 graduated I moved up to the bay area and I worked at a company
25 called Teradyne as a revenue accountant.

BUTROS - CROSS / MATTHEWS

1 Q. So none of the jobs that you had between 1997-2002 had
2 anything to do with interpreting Arabic or translating. Is
3 that correct?

4 A. Correct.

5 Q. Are there any accreditating societies or bodies for people
6 that do interpretation or translation?

7 A. There are.

8 Q. Do you belong to any of them?

9 A. I do not.

10 Q. About how many calls did you listen to over the course of
11 your participation in the investigation of this case?

12 A. I don't know the exact number. But in the tens, dozens,
13 throughout the course of the case.

14 Q. Okay. Perhaps more than 100?

15 A. I can't -- I don't know exactly. They could be up to 100.

16 Q. Could it be a little bit more?

17 A. It could.

18 Q. Okay. You just don't have a firm recollection.

19 A. I don't have a -- no.

20 Q. What you're testifying about today are these 15 calls,
21 correct?

22 A. Yes.

23 Q. All right. You've never met any of the speakers in those
24 calls, correct?

25 A. Correct.

BUTROS - CROSS / MATTHEWS

1 Q. So you've not met Mr. Shafi?

2 A. No.

3 Q. Or Saleem Karim?

4 A. No.

5 Q. Or Mr. Niazi, to the extent that he's spoken in any of the
6 calls?

7 A. Correct.

8 Q. You have no familiarity with how any of these persons --
9 how long they spoke in Arabic, let's say?

10 A. No. Other than what's in these calls.

11 Q. You don't know whether they speak Arabic the same way,
12 let's say, to strangers as they speak with each other.

13 A. Right.

14 Q. I'm speaking of the persons that are on the audio calls
15 today.

16 A. Correct.

17 Q. And so your knowledge of these speakers' speech patterns
18 and the way that they speak are limited to your review of these
19 15 calls or the calls that you've listened to over the course
20 of the investigation, is that correct?

21 A. Yes.

22 Q. And the chart or glossary of terms that are here in front
23 of the jury right now (indicating) is basically limited to
24 those 15 calls as well, correct?

25 A. Yes.

BUTROS - CROSS / MATTHEWS

1 Q. Now, I believe at some point you had provided a literal
2 translation and kind of a practical translation for a term --
3 pardon me if I completely mess this up -- but I think it was
4 *jazak Allah*?

5 A. *Jazak Allah khair*.

6 Q. Like I said, please pardon me. And I think you said the
7 literal translation was, May god reward you.

8 A. With what is good.

9 Q. With what is good.

10 A. Uh-huh.

11 Q. But in practical terms it means "thank you."

12 A. Yes.

13 Q. So there are instances, even as you've described, where
14 somebody could say something literally and the practical
15 meaning could be something completely different.

16 A. Yes.

17 Q. So let's say somebody that didn't speak English they hear
18 something like "trial by fire." that's a literal translation.
19 It could be something else entirely. We know it means
20 something like going through some hardships or working hard to
21 accomplish something.

22 A. Right.

23 Q. You'd also translated the word *nashid*. Do you recall
24 that?

25 A. Yes.

BUTROS - CROSS / MATTHEWS

1 Q. And I believe you said that means a song or a chant?

2 A. Uh-huh.

3 Q. These are the types of things that can be songs or chants
4 about anything, correct?

5 A. Well, can I explain?

6 Q. Please.

7 A. Pious Muslims don't listen to music like we do, like a
8 song, like Brittany Spears or someone else, because they think
9 it's frivolous. So they don't call a religious song that they
10 listen to a song. They don't use the Arabic word for song.
11 They use *nashid*. And in this context, it mostly is a religious
12 -- we would call it song because it's musical, but it's
13 religious in nature.

14 Q. Okay. So it could be a song of praise, let's say?

15 A. A song of praise, yes, or something else.

16 Q. Maybe similar to a hymn that would be part of the
17 Christian faith and sung in church.

18 A. It can be, but it can also be *jihadist* to incite fighting
19 or to encourage people to fight or to, you know, encourage
20 people to fight.

21 Q. Or it could encourage people not to fight?

22 A. It could.

23 Q. In fact, you can actually go on YouTube and find *nashids*
24 all over the place, correct?

25 A. Correct.

BUTROS - CROSS / MATTHEWS

1 Q. You could download them off of iTunes. Correct?

2 A. I don't know if they're on iTunes.

3 Q. Have you ever heard of a gentleman named Sami Yusuf?

4 A. I have not. Oh, you mean --

5 No, I have not.

6 Q. How familiar are you with the Muslim faith?

7 A. Not very familiar. I'm not Muslim, but I do have some
8 understanding.

9 Q. Okay. Are you familiar with the term *hadith*?

10 A. *Hadith*, yes.

11 Q. What is a *hadith*?

12 A. *Hadith* is a quote of the Muslim prophet. So anything that
13 he said, and it's requoted, it's called *hadith*.

14 Q. And *hadith* in particular are really subject to a wide
15 variety of interpretations, correct?

16 A. It can be, though I think, like, Muslims on the whole part
17 have scholars who have translated or interpreted them. And
18 they believe in one meaning for a *hadith*.

19 Q. But it doesn't necessarily mean the same thing to
20 everyone. Correct?

21 A. It would depend on the point of view and where they're
22 looking for the translation.

23 Q. Very well.

24 MR. MATTHEWS: Can you give me one moment, Your Honor?

25

BUTROS - REDIRECT / HASIB

1 **BY MR. MATTHEWS:**

2 **Q.** Just one more question. You didn't -- there were other
3 Arabic words in some of the audio clips that we listened to
4 that you did not translate, correct?

5 **A.** Yes.

6 **Q.** Because you haven't gotten the entirety of the context for
7 every Arabic word contained in the calls.

8 **A.** No. We used the ones that were most frequently used in
9 the calls.

10 **MR. MATTHEWS:** I have no further questions.

11 **THE COURT:** Thank you. Mr. Hasib?

12 **REDIRECT EXAMINATION**

13 **BY MR. HASIB:**

14 **Q.** Ms. Butros, your charts that you have prepared, can you
15 explain how you prepared those?

16 **A.** What do you mean by how I prepared them?

17 **Q.** Well, how did you pick the words to put in there?

18 **A.** Those are the words that appeared most often in the calls.
19 Like *salaam alaikum*. And we figured those would be the ones
20 that would pique the interest of the listener. So we chose
21 words that would answer the questions about what these calls
22 mean when they are brought up in the audio.

23 **Q.** Now, is it possible that your translations on these charts
24 could mean something else in a totally different context?

25 **A.** Some words could, maybe. But we -- the translation -- and

BUTROS - REDIRECT / HASIB

1 I tried to put -- if there was more than one meaning to a word,
2 I have both meanings in the chart. Something -- so -- but we
3 -- when I did the chart, it was in the context of which they
4 were spoken.

5 **Q.** Okay. So, for example, Mr. Matthews just asked you about
6 the phrase *jazak Allah khair*, and you responded that that means
7 "may god reward you with what is good" but you said that could
8 also mean "thank you" depending on the context.

9 **A.** Right. Right.

10 **Q.** In your review of these calls is there any nonliteral
11 translation of the word *shahid* used in these 15 calls?

12 **A.** No. No. It's -- it means martyr.

13 **MR. HASIB:** Thank you, Your Honor. No further
14 questions.

15 **THE COURT:** All right.

16 **MR. MATTHEWS:** Nothing further.

17 **THE COURT:** Thank you, Ms. Butros. You may step down.
18 (Witness excused.)

19 **MR. HASIB:** Your Honor, the government calls as its
20 next witness, Special Agent Glen Bartolomei to the stand.

21 **GLEN BARTOLOMEI,**
22 called as a witness for the Plaintiff, having been duly sworn,
23 testified as follows:

24 **THE CLERK:** Be seated. And adjust as you need to.
25 Then if you would please state your full name for the record

BARTOLOMEI - DIRECT / HASIB

1 and spell it for the court reporter.

2 **THE WITNESS:** My name is Glen Bartolomei. Spelling is
3 B-A-R-T-O-L-O-M-E-I.

4 **DIRECT EXAMINATION**

5 **BY MR. HASIB:**

6 **Q.** Good morning, sir. What do you do for a living currently?

7 **A.** I'm a special agent with the FBI. I'm an instructor at
8 the FBI Academy.

9 **Q.** And where -- where are you an instructor with the FBI?

10 **A.** At Quantico, Virginia.

11 **Q.** How long have you been at Quantico, Virginia?

12 **A.** About a year.

13 **Q.** Were you working for the FBI prior to that?

14 **A.** Yes. Been with the FBI for almost 17 years.

15 **Q.** Where were you working prior to Quantico, Virginia?

16 **A.** I was in the San Francisco field office assigned to the
17 San Francisco International Airport.

18 **Q.** And what was your official title while you were assigned
19 to the San Francisco field office at the San Francisco Airport?

20 **A.** Airport liaison agent.

21 **Q.** Okay. Could you describe what does that mean, airport
22 liaison agent? What did you do every day?

23 **A.** Primarily my job there was to respond to aviation-related
24 threats regarding the FBI's jurisdiction and to build liaison
25 with people at the airport, the entities at the airport.

BARTOLOMEI - DIRECT / HASIB

1 Q. Were you sort of FBI's person on the ground at the
2 airport?

3 A. I was the guy.

4 Q. Were you working in that capacity on June 30, 2015?

5 A. I was.

6 Q. Can you describe anything significant that happened that
7 day for the jury?

8 A. So as I recall on June 30 in the afternoon, it was about
9 4:30 in the afternoon, I got a telephone call from Special
10 Agent Chris Monika and he asked me to return to the airport and
11 said that Mr. Shafi had checked in at the airport on flight --
12 Turkish flight 80 (sic) en route to Istanbul. And he asked
13 that I find him and hold him until Chris Monika got there to
14 question him.

15 Q. Let me ask you a couple questions. You said you went back
16 to the airport. Where were you at the time?

17 A. I just left the airport grounds. I was getting gas in my
18 FBI car at the gas station.

19 Q. And you got a call from a special agent, Chris Monika?

20 A. Correct.

21 Q. And as a result of that call, did you, in fact, go back to
22 the airport?

23 A. I did. I went back to the airport immediately and I went
24 directly to Gate 97, which was Turkish Airline 880.

25 Q. Where in the airport is that physically?

BARTOLOMEI - DIRECT / HASIB

1 **A.** Gate 97 is 97 out of 100 gates. And that's on the G side,
2 on the north side of the terminal. G international. G side.

3 **Q.** International terminal?

4 **A.** Correct.

5 **Q.** What you did see when you got to Gate G97?

6 **A.** It was a typical scene. They were queued up. I believe
7 the flight was slightly delayed for whatever reason, and the
8 passengers were queued up in the area. And I went right to the
9 gate agent at the Gate 97 and introduced myself, identified
10 myself, and told her why I was there.

11 **Q.** What did you do next?

12 **A.** So I explained to her the reason I was there and that
13 Mr. Shafi would not be boarding that flight that day. And then
14 I went to talk to the CBP, the Customs and Border Protection
15 officers, that were queued up in the area -- they're doing
16 their duty on the jet bridge -- and explained to them. Again,
17 identified myself and said that Mr. Shafi would not be boarding
18 the flight that day.

19 **Q.** Do you recall who you talked to with the CBP?

20 **A.** I believe it was Johnny Castillo and/or Gordon Mon was
21 there. Two of the CBP uniformed officers.

22 **Q.** Okay. Did you discuss sort of a plan of action with them
23 about what was going to happen?

24 **A.** Yes. So part of what they were doing was making sure that
25 if he had any checked luggage to make sure that didn't get on

BARTOLOMEI - DIRECT / HASIB

1 the plane. And we were kind of formulating a plan as to not
2 create panic in the boarding area by just walking up to the guy
3 and, you know, asking him to leave. So we asked the gate agent
4 to page him on the overhead to come up to the counter.

5 **Q.** Okay. And was there any response?

6 **A.** There was no response. He didn't respond at all to it.

7 **Q.** And did you see the person that you were looking for, Adam
8 Shafi, at the airport that day?

9 **A.** Yes. He was sitting by himself on the outside near the
10 window on the outside of the gate area.

11 **Q.** Let me ask you. Do you see him here in the courtroom
12 today?

13 **A.** Yes, I do.

14 **Q.** Can you just describe for the record what he's wearing?

15 **A.** Sure. He's got a white shirt on, glasses, dark hair.

16 **MR. HASIB:** If the record may reflect the witness has
17 identified Mr. Shafi, Your Honor.

18 **THE COURT:** It shall so reflect.

19 **BY MR. HASIB:**

20 **Q.** What happened next, Agent Bartolomei?

21 **A.** So because he didn't respond to the page, we decided to
22 wait until they started calling to board the flight. And he
23 was probably, as I recall, maybe eight or ten people from the
24 podium at the counter where you would swipe your boarding pass
25 before you get onto the jet bridge. And that's when I

BARTOLOMEI - DIRECT / HASIB

1 approached him, identified myself -- or, I didn't identify
2 myself at that point again for the same reasons, I didn't want
3 to create panic among the passengers. I just asked him if he
4 would come with me.

5 **Q.** Okay. Let me ask you to sort of paint the picture a
6 little bit. How big is this boarding area with respect to this
7 courtroom?

8 **A.** I would say it's probably half as wide as this courtroom
9 but probably pretty close to the same size.

10 **Q.** And I think you said there was a line. What was the line
11 for?

12 **A.** So they queued people up. You know, they called by rows
13 to get on the plane. By sections to get on the plane. So as
14 they were boarding, so that the passengers were in line waiting
15 to scan their boarding pass to get on the jet bridge to get on
16 the plane.

17 **Q.** And had passengers started boarding at that point?

18 **A.** Yes.

19 **Q.** And where were you while all this was going on?

20 **A.** So I was standing behind the counter. Typically I stand
21 with the Turkish Airline employees or the gate agents that are
22 back there.

23 **Q.** And what's after the counter? After you swipe the
24 boarding pass, what happens after that?

25 **A.** You step into the jet bridge and you walk down the jet

BARTOLOMEI - DIRECT / HASIB

1 bridge and get onto the plane.

2 **Q.** Now, when you encountered Adam Shafi -- you said a moment
3 ago that you went and spoke to him at the gate that day --
4 where was he when you first spoke to him?

5 **A.** When I first spoke to him he was probably eight or ten
6 people back from that podium or that area where you scan your
7 boarding pass.

8 **Q.** And I may have neglected to ask you this. Were there any
9 other agents that were working with that day?

10 **A.** Yes. So after I got the call from Agent Monika I called
11 my partner, Task Force Officer and Homeland Security
12 Investigations Agent Mark Mauro to come with me. So the two of
13 us were there. Plus, of course, I talked to the uniformed CBP
14 officers.

15 **Q.** And could you describe what happened when you approached
16 Adam Shafi?

17 **A.** So I asked him -- identified him, asked him to come with
18 me. And he didn't offer any resistance or didn't ask me any
19 questions at that point. So it was myself, Agent Mark Mauro,
20 and I had uniformed officer in case there was any questions
21 about what was going on or why I was pulling him from the line.
22 And we headed towards the escalator to exit the gate area.

23 **Q.** So the gate area is downstairs?

24 **A.** Correct.

25 **Q.** Then you go up an escalator. What's upstairs?

BARTOLOMEI - DIRECT / HASIB

1 A. It's the main concourse. The G concourse is up there.
2 The international G.

3 Q. Where shops and restaurants and things are?

4 A. Correct.

5 Q. And when you asked him if he could come with you, did he
6 resist at all?

7 A. Not at all. No questions like, What's this about? Or,
8 I'm getting ready to get on a plane. No questions at all. He
9 just came with me.

10 Q. Any concerns about missing the flight?

11 A. Nope.

12 Q. Did he ask where you were taking him?

13 A. So on the escalator is when I officially identified
14 myself. I showed him my credentials and asked him if, you
15 know, he had any idea why the FBI would want to talk to him
16 that day. I believe his response at that time was something to
17 the effect of his father had concerns.

18 Q. Was he carrying anything with him at the time?

19 A. So I recall he had a backpack with him for sure. And the
20 CBP uniformed officer who came with us had a small piece of
21 luggage, but I can't tell you for certain whether or not that
22 was a checked piece he had pulled from the plane or whether
23 that was a piece that Mr. Shafi was carrying on the plane.

24 Q. Okay. How big was that other piece of luggage, the
25 checked piece?

BARTOLOMEI - DIRECT / HASIB

1 **A.** Probably maybe two feet -- like a small -- small piece of
2 luggage. Not something that you would take on a long trip.

3 **Q.** Where did you go next? After going on the escalator,
4 where did you go next?

5 **A.** So we walked, the four of us, walked through the G
6 concourse through the airport to the FBI office. We have a
7 permanent office space on the A side, international A side,
8 which is technically on the south side of the airport but
9 across the entire airport.

10 **Q.** And you said "the four of us." Who were the four of you
11 at that point?

12 **A.** So it was myself, Agent Mauro, Mr. Shafi and a CBP
13 uniformed officer.

14 **Q.** Any discussion with Mr. Shafi as you're walking from the G
15 gates to the other side of the terminal to where your office
16 was?

17 **A.** I don't recall. It was probably small talk, but I don't
18 recall anything significant at that point.

19 **Q.** At some point did you end up talking to Mr. Shafi a little
20 more extensively?

21 **A.** I did. Once we got to the FBI office, I showed Mr. Shafi
22 into our interview room. I offered him a bottle of water and
23 he declined. It was Ramadan and we didn't have any water -- he
24 didn't want any water. So I sat down with him and we had a
25 conversation about going to Turkey and why he was going and who

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1 he was going to meet there. Just small talk mostly.

2 **Q.** And what did he say about going to Turkey?

3 **A.** So I specifically asked, you know, Why Turkey? Why you
4 going to Turkey? He told me he didn't like the direction of
5 the politics the United States was going. And this is
6 specifically right after the United States Supreme Court had
7 just passed allowing gay marriages.

8 **Q.** And did he cite that as a reason that he was leaving for
9 Turkey?

10 **A.** He did. He said he wanted to go somewhere where he had
11 like-minded people.

12 **Q.** Did you ask him at all about what he was planning to do
13 once he got to Turkey?

14 **A.** I did. Again, just mostly for curiosity of, you know, Are
15 you meeting somebody? He said he didn't have any contacts over
16 there, he didn't have any hotel reservations. There was no
17 finite plans once he got there.

18 **Q.** Did he say anything about where he was going to go when he
19 got to Turkey?

20 **A.** He didn't have anything permanent. I asked him if he was
21 going to stay in Turkey or if he was going to leave Turkey.
22 And he said he planned on staying in Turkey. He did mention
23 that he had some relatives in Egypt that I guess if he had to
24 go, if he needed them, he could go to Egypt to be with his
25 relatives.

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1 Q. Did you ask him about whether he'd been to Turkey before?

2 A. I did. And he said that he was there the previous August.
3 And he said that he had to cut his trip short because he got
4 robbed of his personal belongings when he was there so he came
5 back to the United States earlier.

6 Q. Did he mention his family at all to you?

7 A. We briefly talked about his father. Again, I asked him
8 why he thought the FBI would want to talk to him that day. And
9 he said because his father didn't approve of his international
10 travel. We really didn't get too much into anything else on
11 that.

12 Q. Would you describe this as a formal interview that you had
13 with Mr. Shafi?

14 A. No. Typically we do this -- I do this all the time at the
15 airport. And I -- holding him until the case agent, Agent
16 Chris Monika, came up. So I was having a rapport building
17 conversation with him at the time. Just a conversation.

18 Q. Were you just trying to sort of wait it out until the
19 other agents arrived?

20 A. Absolutely. It was about -- if my memory serves me, it's
21 about 50 minutes I think before Chris Monika got there.

22 Q. Did he express any surprise about being taken out of line
23 at the gate and brought to the FBI office?

24 A. No. In fact, I think he made a comment about having a
25 dream -- kind of odd -- but he had a dream that the FBI pulled

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1 him out of line on this flight, or on another flight. Didn't
2 really get into too much details on that. But he didn't seem
3 surprised at all.

4 **Q.** Did he talk at all about buying his ticket?

5 **A.** I did ask him mostly again for curiosity of how he bought
6 a ticket. It was a one-way ticket that he bought online on a
7 website I believe called Fare Compare. And he paid \$1,200 or
8 \$1,275 for the ticket.

9 **Q.** Did he tell you when he bought the ticket?

10 **A.** I don't recall.

11 **Q.** Is there anything that might help you recall?

12 **A.** Not that I could think of.

13 **Q.** Did you review any documents prior to coming here today?

14 **A.** Oh, yes, I did.

15 **Q.** Did you review any FBI 302s before you came here today?

16 **A.** I did.

17 **Q.** Are there any FBI 302s that would help you recall?

18 **A.** So there was the boarding pass and his ticket that he had
19 with him that we had copies of.

20 **MR. HASIB:** Your Honor, may I approach the witness?

21 **THE COURT:** You may.

22 **BY MR. HASIB:**

23 **Q.** I'm placing before you Exhibit 123. Do you recognize that
24 document?

25 **A.** I do.

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1 **Q.** What is that document?

2 **A.** This is a boarding pass for Mr. Shafi.

3 **Q.** And how do you recognize it?

4 **A.** I'm quite familiar with seeing these every day when I was
5 at the airport.

6 **Q.** You recall seeing that boarding pass that day?

7 **A.** I do. He had it with him when we came into the interview
8 room with the FBI.

9 **MR. HASIB:** Your Honor, I would offer Exhibit 123 into
10 evidence.

11 **THE COURT:** Okay. Any objection?

12 **MR. MATTHEWS:** No objection.

13 **THE COURT:** It's admitted.

14 (Trial Exhibit 123 received in evidence)

15 **BY MR. HASIB:**

16 **Q.** Did you have any further conversation with Mr. Shafi at
17 that point?

18 **A.** No. Like I said, it was probably 50 minutes that we
19 chatted before Agent Monika arrived.

20 **Q.** Okay. What happened when Agent Monika arrived?

21 **A.** So I stepped out of the interview room to have a
22 conversation with Agent Monika to kind of brief him on,
23 basically, what we just talked about, and then I brought him in
24 and introduced him to Adam, and then I went into our office
25 space.

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1 Q. Okay. Can you just sort of describe the layout? Where's
2 the interview room and where were you? Where's the office
3 space that you went to?

4 A. So they're adjacent. As you come in our front door of the
5 office space, there's a foyer with a few chairs, maybe 8 X 8 or
6 10 X 10, even if that big. Adjacent to that there's a door
7 that goes into the interview room. And there's a small table
8 with six chairs around it and a white board. Just a standard
9 interview room. And then our office space -- you go through
10 the foyer, and our office space would be behind the interview
11 room.

12 Q. And did you participate in the interview in person at any
13 point later that -- after Chris Monika arrived?

14 A. I did not.

15 Q. Did you participate in any other way?

16 A. So we have -- in the interview room there's closed circuit
17 television that monitors -- primarily for officer safety -- but
18 that I could monitor audio and visual of the interview. And
19 periodically, I would go over and -- I wasn't sitting -- that's
20 not at my desk, so I would come from my desk over just to
21 listen to make sure, see how the interview's going and if
22 there's anything that I could help him out with. But I did not
23 listen to the entire interview.

24 Q. Did you have any further interaction with Mr. Shafi that
25 day?

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1 **A.** So at the end of the interview, Agent Monika, Agent Mauro,
2 and myself walked him to the BART station. It was probably
3 8:00 or a little after 8:00 that evening.

4 **Q.** What did you do at the BART station?

5 **A.** Send him on his way. Walked him to the front -- I offered
6 him a ride, actually, to go back to his car but he declined.
7 He wanted to take the BART. I guess his car was parked at the
8 BART station in Fremont, maybe. Pushed him through the BART
9 station and we went back to the office.

10 **Q.** Do you know if any agents got on the train with him at the
11 BART station?

12 **A.** We did have a surveillance team at the BART station
13 coordinated to follow him, yes.

14 **Q.** Did you see Adam Shafi at all after that day?

15 **A.** I did not.

16 **Q.** Did you hear from Adam Shafi at all after that day?

17 **A.** Yes. I believe it was the next day when he called me.
18 Typically almost everybody that I deal with at the airport I
19 give them my business card. And he called me and told me that
20 he had talked to an attorney -- or his attorney -- and said
21 that he couldn't meet me the next day. Well, in fact, he was
22 going to meet Agent Monika the next day. So I just gave him
23 Agent Monika's desk phone.

24 **MR. HASIB:** Your Honor, may I publish the boarding
25 pass to the jury, Exhibit 123?

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1 **THE COURT:** You may.

2 **MR. HASIB:** If we could use the Elmo, Ms. Davis.

3 **BY MR. HASIB:**

4 **Q.** And if you could just walk through what you see on this
5 boarding pass, Special Agent Bartolomei?

6 **A.** So it's a Turkish Airline, typical Turkish Airline
7 boarding pass. His name, the date was June 30, the time is
8 1810. It's from San Francisco Airport to Istanbul. He's
9 departing from Gate G97, boarding time is at 1800. And, again,
10 I believe that flight was leaving late that day for some
11 reason. And he's seated in 49A.

12 What you see circled there, the SSSS, is a signal for the
13 airlines that he is a selectee. The SSSS stands for security
14 screening --

15 **Q.** Two more S's?

16 **A.** Two more S's. Selectee. It's -- SSSS is what we refer to
17 as a selectee, basically, so they know that he's going to go
18 through some extra screening at the airport mandatory. So when
19 he gets through the checkpoint, they make sure his laptop turns
20 out. There's things that TSA does. That's how they notify
21 that.

22 **Q.** Do you know how that SSSS got on there? If you know?

23 **A.** There's a few different ways of how that happens. But it
24 -- this is probably because he was a subject of the
25 investigation.

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1 **Q.** Let me ask you not to speculate. Do you know how he got
2 on there?

3 **A.** No, I do not.

4 **MR. HASIB:** Your Honor, no further questions for this
5 witness.

6 **THE COURT:** All right.

7 **CROSS-EXAMINATION**

8 **BY MR. MATTHEWS:**

9 **Q.** Morning.

10 **A.** Good morning.

11 **Q.** Now, you testified that you got a call from Agent Monika
12 around 4:30 asking you to return.

13 **A.** Correct.

14 **Q.** And you were in your FBI car at the time?

15 **A.** Correct.

16 **Q.** The call came in to your cell phone?

17 **A.** Correct.

18 **Q.** About how far away from the airport were you?

19 **A.** It was at the Shell station. Probably not more than two
20 miles.

21 **Q.** Okay. So pretty close by.

22 **A.** Yes.

23 **Q.** Is your car equipped with a light and siren?

24 **A.** It is.

25 **Q.** Did you use it to get back to the airport?

1 A. No.

2 Q. So not in any particular hurry.

3 A. No.

4 Q. Now, when you get to the airport -- I mean, I don't want
5 you to reveal any top secret information, but do you guys have
6 like a special entrance to get into the terminal?

7 A. No, we park -- well, in an urgent situation we could
8 probably park at the curb if we wanted to. But I knew that the
9 flight was not leaving any time soon so I parked in our normal
10 parking spot in the garage. We have spots in the international
11 garage. And just made my normal commute into the terminal.

12 Q. Okay. And in the course of your normal commute, that
13 would be towards down -- down towards Gate G97 I believe you
14 said?

15 A. Correct.

16 Q. And about how long did it take you from the time you left
17 your car until you got to Gate G97?

18 A. That's probably a 10-minute walk.

19 Q. How were you dressed that day?

20 A. I was dressed business casual. Typically khaki pants and
21 a collared shirt.

22 Q. And you stated that you did not identify yourself at the
23 time you pulled Mr. Shafi out of the line?

24 A. That's correct.

25 Q. But you were with some law enforcement officers that were

1 in uniform, correct?

2 **A.** Correct. At least one Customs and Border Protection
3 officer was there in uniform.

4 **Q.** And you said something along the lines to Mr. Shafi, Would
5 you come with me, please?

6 **A.** Yes.

7 **Q.** And he offered no resistance if I recollect correctly.

8 **A.** Correct. Cooperative.

9 **Q.** You stated that you also saw some baggage that had been
10 taken off of the aircraft and I think you described about how
11 big it was. So that had been checked already, correct?

12 **A.** I'm not sure whether or not -- I know for sure he had a
13 backpack with him because I saw that. But I can't tell you
14 whether or not he had this piece of luggage as a carry on and
15 he was going to take onto the plane with him, or whether it was
16 checked, and the CBP officer knowing that he wasn't going to be
17 on the plane pulled it from the belly of the plane or pulled it
18 from the luggage.

19 **Q.** So if he had brought it as carry on, it would have gone
20 through the TSA screening area prior to getting into the
21 passenger area of the airport, correct?

22 **A.** Absolutely.

23 **Q.** And they search things thoroughly, correct?

24 **A.** Absolutely. Especially if it's a SSSS.

25 **Q.** Now, were you armed that day?

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1 A. Yes.

2 Q. Okay. Was your weapon visible?

3 A. No.

4 Q. Okay. So you had jacket or something concealing it at the
5 time that you got to the gate?

6 A. Correct.

7 Q. You stated that you -- after you got -- excuse me -- after
8 you started to walk from the gate back towards your office, the
9 resident office in the airport, the FBI office, how many
10 officers were with you at that time? I was a little unclear.

11 A. I believe there was -- well, there was one CBP officer, a
12 uniformed officer; agent -- Task Force Officer Agent Mauro was
13 with me also in plain clothes; and myself.

14 Q. So there was at it least one uniformed officer.

15 A. Correct.

16 Q. And how long was the walk from Gate 97 to the escalator?
17 Let's take it in chunks.

18 A. Oh, it's from my seat to the front door. It's yards.

19 Q. And then from the escalator to the FBI office, about how
20 long was that?

21 A. It's across the entire airport. Again, it's probably
22 about a 10-minute walk. 10 or 12 minute walk.

23 Q. Did Adam still have his backpack on?

24 A. The CBP officer might have been carrying it for him. I
25 can't recall.

1 Q. And who was carrying his bag if you recall?

2 A. That was the CBP officer.

3 Q. Okay. And as you're walking through the terminal, did
4 Adam make any attempt to break loose or go off or try to get
5 away from your --

6 A. Not at all.

7 Q. -- your immediate presence?

8 A. Not at all.

9 Q. Quite cooperative, correct?

10 A. Correct.

11 Q. Now, you said you got to the FBI office. Could you
12 describe the room that you put Adam in -- excuse me --
13 Mr. Shafi into at the time that you arrived at the FBI office?

14 A. Yeah, it's a very benign room. It's carpeted. There's a
15 white board on the wall. It's a small table. Seats probably
16 six -- six people. There's a telephone in the room. Really
17 nothing else. No lamps or plants or anything.

18 Q. You said "benign." Does it have a video camera in it?

19 A. There are -- yes. There's two video cameras in there.

20 Q. And, in fact, after Agent Monika showed up -- we'll talk
21 about him in a moment -- were you monitoring the conversation
22 from some remote location?

23 A. Before he showed up? I was --

24 Q. No. After Agent Monika showed up.

25 A. Yes. We have a CCTV monitor inside the office space. And

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1 I didn't -- it's not very conducive for just casually
2 monitoring. You have to wear headphones and you're sitting in
3 front of the screen. So I would check in periodically, but I
4 wasn't listening to the entire conversation.

5 Q. You stated at some point during direct examination that
6 this was not what you considered a formal interview.

7 A. Correct.

8 Q. You still had your weapon with you, correct?

9 A. Absolutely.

10 Q. And you had Mr. Shafi at the table? You were asking him
11 questions about where he was going.

12 A. Uh-huh.

13 Q. And why he was going.

14 A. Correct.

15 Q. So okay. So there's some degree of concern at least in
16 your mind as to what you thought Mr. Shafi might have been up
17 to.

18 A. Well, I would describe it more of a rapport-building
19 conversation, because I just pulled him from line and I, at
20 that point, really didn't know exactly the circumstances of the
21 case or what was going on. So I was just having a conversation
22 with him -- logical -- of: You're here at the airport. Where
23 you flying to? How long you going to be there?

24 Q. Right. But you were actually holding him at Agent
25 Monika's direction?

1 A. Correct.

2 Q. He wasn't free to go at that point, was he?

3 A. Well, the door is open and in theory, yes, he was free to
4 go.

5 Q. "In theory, yes."

6 A. Yes.

7 Q. Had he got up and left, what would you have done?

8 A. Nothing.

9 Q. Now, your interview with Mr. Shafi lasted approximately
10 how long? When I say "your interview," I'm talking about the
11 portion of the interview before Agent Monika arrived.

12 A. I would say from the time that I start the talking with
13 him at the gate until Agent Monika arrived, not more than an
14 hour.

15 Q. Okay. So you -- that was about the 50-minute to an hour
16 conversation you're referring to.

17 A. Correct.

18 Q. And Mr. Shafi responded to your questions when asked,
19 correct?

20 A. Oh, absolutely.

21 Q. Now, you said he told you that one of the reasons he was
22 leaving was to be among like-minded people, correct? And that
23 -- I'm sorry. You're going to have to say "yes" or "no."

24 A. Oh. Yes. Sorry.

25 Q. Thank you. One of the -- let me ask you this. If gay

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1 marriage was one of the reasons he was leaving, do you recall
2 when he bought his airline ticket?

3 A. It was recently, but I don't know for certain.

4 Q. The day before?

5 A. It might have been a few days before, yes.

6 Q. And did he mention politics as one of the reasons that he
7 thought Turkey might be a better venue for him?

8 A. He did.

9 Q. And being among Muslims also another reason?

10 A. It was.

11 Q. And when he said his father wouldn't approve, was he
12 responding to your question about traveling to Turkey in
13 particular?

14 A. I believe so. When I asked him why he -- why he would
15 think that his father called us or contacted us, he said his
16 father wouldn't approve of him traveling overseas.

17 Q. So do you recall after Agent Monika arrived -- I mean, how
18 did he introduce himself if you were there?

19 A. I introduced, because I had been with Adam, Mr. Shafi, for
20 the 50 minutes or 60 minutes before and built that rapport. So
21 I introduced him to Special Agent Chris Monika. And as soon as
22 Chris introduced himself to Mr. Shafi, I basically left the
23 room.

24 Q. Do you know how long or for how long Agent Monika
25 questioned Mr. Shafi?

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1 **A.** I would estimate probably little less than two hours.

2 Because it was probably after 8:00 when we walked him to the
3 BART station.

4 **Q.** Were you monitoring the entirety of the conversation or
5 just a portion of it?

6 **A.** No, just spot checking. I did not listen to the entire
7 conversation. I was sitting at my desk.

8 **Q.** And as far as you know, at no time during those two hours
9 or so that Agent Monika questioned Mr. Shafi did Mr. Shafi try
10 to leave the room or otherwise cease giving answers to Agent
11 Monika.

12 **A.** Absolutely not. I do recall that Agent Monika -- we had a
13 bathroom break or two during their time because he came in to
14 let me know that they're going to be breaking.

15 **Q.** You stated that you typically give your business cards
16 when you make contact with people in the airport for whatever
17 reason.

18 **A.** That's correct.

19 **Q.** And you stated that Mr. Shafi called you one day on the
20 number that you gave him on the business card?

21 **A.** Correct. My cell phone number is on my business card.

22 **Q.** Do you know whether he and Agent Monika had actually
23 agreed to meet on a particular day?

24 **A.** I do not know that for certain.

25 **Q.** But did Mr. Shafi tell you that he was not going to be

BARTOLOMEI - CROSS / MATTHEWS

1 able to make some meeting.

2 **A.** Correct.

3 **Q.** Did you think it was -- the meeting -- excuse me. Let me
4 rephrase that.

5 Did Mr. Shafi, when he called you, sound like he thought
6 the interview was going to be with you or with Agent Monika?

7 **A.** I believe he thought it was with me.

8 **Q.** You both -- you and Agent Monika -- have the first name of
9 Chris or Christopher, correct?

10 **A.** I'm Glen.

11 **Q.** Glen. Oh, that's embarrassing.

12 **A.** It's confusing.

13 **Q.** But you gave him Agent Monika's number.

14 **A.** I did.

15 **MR. MATTHEWS:** Excuse me one moment, Your Honor.

16 (Pause.)

17 **BY MR. MATTHEWS:**

18 **Q.** One or two other questions. Does the CCTV set up that you
19 have for that particular interview room, does that make a
20 permanent video recording?

21 **A.** It can, but it didn't. We don't -- you have to manually
22 do that. So we did not record the interview.

23 **Q.** Were you the only one with access to the monitoring room
24 or access to the equipment that could have recorded it?

25 **A.** That night, yes.

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1 **Q.** How about audio recordings?

2 **A.** That would be in the same system. It's audio and visual
3 CCTV.

4 **Q.** Now you mentioned that you offered Mr. Shafi some water at
5 some point maybe prior to beginning your interview of
6 Mr. Shafi, is that correct?

7 **A.** Correct. Probably as soon as we walked into the room.

8 **Q.** And Mr. Shafi refused because he was fasting during
9 Ramadan?

10 **A.** That's correct.

11 **Q.** Did he eat or drink anything as far as you know -- let me
12 put it this way: Did he eat or drink anything during the
13 50-minute period that you were asking him questions?

14 **A.** He did not.

15 **Q.** Do you know whether he ate or drank anything during the
16 two-hour period following your interview that was conducted by
17 Agent Monika?

18 **A.** I do not know for certain.

19 **MR. MATTHEWS:** Certainly. Very well. I have no
20 further questions, Your Honor.

21 **THE COURT:** Mr. Hasib?

22 **MR. HASIB:** Just a couple, Your Honor.

23 **REDIRECT EXAMINATION**

24 **BY MR. HASIB:**

25 **Q.** Special Agent Bartolomei, Mr. Matthews was asking you some

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1 questions about your car and whether it had sirens and things
2 like that. When you got the call from Special Agent Monika to
3 go back to the airport, was it an unusual request in your line
4 of work?

5 **A.** Not at all.

6 **Q.** Is that something that was sort of part of your everyday
7 course of business?

8 **A.** That is part of my duties as an airport liaison agent,
9 yes.

10 **Q.** So this request to go to the gate and intercede from
11 someone getting on a flight, is that something that you did
12 quite frequently?

13 **A.** Yes.

14 **Q.** Okay. And Mr. Matthews asked you some questions about
15 whether you were carrying a firearm that day. Is it part of
16 your responsibilities as a special agent at the airport to
17 carry a firearm?

18 **A.** Not only at the airport but, yes, every day.

19 **Q.** So were you carrying a firearm that day because you were
20 acting in your official capacity?

21 **A.** Absolutely.

22 **MR. HASIB:** I have no further questions for this
23 witness, Your Honor.

24 **MR. MATTHEWS:** Nothing further, Your Honor.

25 **THE COURT:** All right. Thank you. You're excused.

MAURO - DIRECT / HASIB

(Witness excused.)

MR. HASIB: Government calls Mr. Mark Mauro to the stand.

MARK MAURO,
called as a witness for the Plaintiff, having been duly sworn,
testified as follows:

THE CLERK: And if you would please state your full name for the record and spell it for the court reporter.

THE WITNESS: Sure. Mark Mauro. M-A-R-K, M-A-U-R-O.

DIRECT EXAMINATION

BY MR. HASIB:

Q. Good morning, Mr. Mauro.

A. Good morning.

Q. What do you currently do for a living currently?

A. Currently I work at Google within our global security department.

Q. Let me just ask you to slow down a little bit and speak into the microphone so the court reporter can catch you.

How long have you been working at Google?

A. Just about ten months.

Q. Okay. What did you do before working at Google?

A. I was a special agent with Homeland Security Investigations.

Q. Okay. How long were you a special agent with Homeland Security Investigations?

1 A. Seven years and eight months.

2 Q. Is that the agency known as HSI?

3 A. Correct.

4 Q. What did you do -- what were your responsibilities as a
5 special agent with HSI?

6 A. So I investigated everything from child pornography to
7 national security cases. So over the course of my career I did
8 financial investigations as well as visa investigations.

9 Q. Were you assigned to a particular office at HSI?

10 A. Yes. Beginning of my career I started off in San Jose
11 field office, and then I was transferred up to San Francisco
12 field office.

13 Q. So you were in either San Jose or San Francisco for your
14 entire career with HSI?

15 A. Yes.

16 Q. Were you working with HSI in June of 2015?

17 A. Yes.

18 Q. In what capacity were you working with HSI at that point?

19 A. I was still in the San Jose office, and at that point I
20 was assigned to the FBI's joint terrorism task force in the San
21 Jose office.

22 Q. So you were working for HSI but assigned to the FBI?

23 A. Correct.

24 Q. You said it was the joint terrorism task force that you
25 were assigned to?

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1 **A.** Yes.

2 **Q.** Is that something that is frequently done? Do agencies
3 loan people to other agencies?

4 **A.** Yes. That's part of the task force.

5 **Q.** So were there other people on this task force from other
6 agencies?

7 **A.** Yes.

8 **Q.** Directing your attention to June 30 of 2015, did anything
9 unusual happen that day?

10 **A.** Yes. I received a phone call from one of the agents on
11 the squad asking me what my location was and if I could respond
12 to the San Francisco Airport.

13 **Q.** Okay. And where were you at the time that you got this
14 call?

15 **A.** I was driving away from work towards home.

16 **Q.** And where were you working that day, if you recall?

17 **A.** I was working -- actually, at that time I was working at
18 the San Francisco Airport office. I had meetings scheduled
19 that day so I was in the area.

20 **Q.** Okay. So you were at the airport driving home and you got
21 a phone call?

22 **A.** Correct.

23 **Q.** And who called you, if you recall?

24 **A.** Special Agent Chris Monika from the FBI.

25 **Q.** Okay. And what did Agent Monika tell you?

MAURO - DIRECT / HASIB

1 A. He told me that Adam Shafi was at the airport and had
2 purchased a ticket to travel overseas. And if I could respond
3 and meet another agent at the airport.

4 Q. Okay. And did you go back to the airport?

5 A. I did.

6 Q. And did you meet up with any other agents?

7 A. I did. I met up with Special Agent Glen Bartolomei. He
8 was assigned to -- he's on the -- he was on the task force
9 initially, and then he was assigned to the San Francisco
10 Airport office.

11 Q. Okay. At the time you got the call from Special Agent
12 Monika, did the name Adam Shafi mean anything to you?

13 A. Yes. I knew that -- we had an investigation on him, and
14 so I was familiar with the name.

15 Q. Okay. Had you participated in any surveillances at that
16 point in this investigation?

17 A. I did, yes.

18 Q. And were you familiar with the physical appearance of Adam
19 Shafi at that point?

20 A. I was.

21 Q. How were you familiar with his physical appearance at that
22 point?

23 A. Based on photographs and also physical -- or, physical
24 surveillance.

25 Q. Okay. And do you see that person in the courtroom here

1 today?

2 **A.** I do.

3 **Q.** And can you just describe what he's wearing?

4 **A.** He is wearing a white shirt, glasses. White-collared
5 shirt, glasses.

6 **MR. HASIB:** If the record could reflect, Your Honor,
7 that the witness has identified the defendant.

8 **THE COURT:** It does.

9 **BY MR. HASIB:**

10 **Q.** So you went back to the airport that day?

11 **A.** I did.

12 **Q.** Could you walk the jury through what happened at the
13 airport? What did you do?

14 **A.** Sure. I arrived at the airport, reached out to Special
15 Agent Bartolomei to figure out where he was located, and then
16 proceeded to meet up at the gate. The international -- it was
17 the international G terminal, Gate 97.

18 **Q.** Okay. And could you describe what you saw when you got to
19 the international terminal Gate G97?

20 **A.** I saw many passengers just waiting in the boarding area
21 for the gate -- or, for the flight to begin loading.

22 **Q.** Okay. Could you sort of physically describe where is the
23 gate area with respect to the airport?

24 **A.** So the international -- the G side is if you walk in off
25 of the curb, the G side is to the left.

1 Q. Okay. And where are the gates? Are they on the same
2 level as the curb or --

3 A. No. The gates -- so after you go through security, that's
4 a concourse level, shops, restaurants, that sort of thing, and
5 then you have to take escalators to get down to the gate area
6 where the boarding process begins.

7 Q. Is there TSA security somewhere between the curb and the
8 gate?

9 A. Yeah. Yeah.

10 Q. Could you describe what the gate looked like when you got
11 there? What was going on?

12 A. Passengers were just sitting around waiting to board.

13 Q. Was it crowded?

14 A. Yes.

15 Q. Did you meet up with Special Agent Glen Bartolomei at any
16 point?

17 A. I did, yeah. We met up and we went and spoke to the gate
18 agent for the airline to explain sort of the situation.

19 Q. Okay. And did you see Adam Shafi at the gate at any
20 point?

21 A. I did.

22 Q. And could you describe where you saw him?

23 A. I saw him seated sort of on the left-hand side of the gate
24 area, the boarding area.

25 Q. Okay. So down the escalators in the gate area?

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1 A. Correct. Yeah. In the boarding, waiting area.

2 Q. What happened next after you talked to the gate agent?

3 A. After we talked to the gate agent, then Special Agent
4 Bartolomei and I figured out sort of that we were just going to
5 stay and conduct physical surveillance for the time being. So
6 he stayed -- I believe he stayed more towards the actual gate
7 boarding place. And then I went back towards the back of the
8 boarding area. Sort of towards the escalator.

9 Q. Okay. And did you hear anything unusual while you were at
10 the gate?

11 A. Yes. I heard Adam Shafi's name being paged over the
12 overhead (sic).

13 Q. And did you see what -- I'm sorry. Let me go back a
14 second. Did you see Adam Shafi at the gate at the time while
15 his name was being paged?

16 A. Yes.

17 Q. Did you see what, if anything, he did as a result?

18 A. He didn't do anything.

19 Q. So you positioned yourself towards the back of the gate.
20 And I think you said Special Agent Bartolomei was towards the
21 front of the gate?

22 A. Yeah. He stayed up towards like where the gate -- or, the
23 ticket agent, or gate agent, would be. Sort of up in that
24 area.

25 Q. What happened next?

1 **A.** They proceeded to announce general boarding. Once they
2 did that most of the people that were in the gate area started
3 to sort of line up to proceed to board. At that point I saw
4 Adam Shafi getting in line to -- along with the rest of the
5 passengers to begin the boarding process.

6 **Q.** Did anything happen after he got into line?

7 **A.** We watched the line move for a little bit. It was moving
8 slowly. And then eventually Special Agent Bartolomei and
9 myself approached Adam Shafi and identified ourselves.

10 **Q.** How did you identify yourself?

11 **A.** We showed -- discretely we showed our badge and
12 credentials and explained who we were and said that, you know,
13 we needed to speak with him. And that we asked him to step out
14 of line.

15 **Q.** Did he respond in any way?

16 **A.** He just agreed.

17 **Q.** Did he -- did he end up going with you?

18 **A.** Yes.

19 **Q.** And where did you go?

20 **A.** So at the point we stepped out of line, proceeded to go up
21 the escalator. And once we got to the top of the escalator
22 that's on the main concourse level, again we identified
23 ourselves this time, you know, showing our credentials and
24 reiterating who we were and that we'd like to speak with him in
25 regards to his travel. And that he agreed.

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1 Q. Okay. Do you recall any uniformed officers there with you
2 that day?

3 A. There were some uniformed CBP, so Customs and Border
4 Protection officers in, the gate area. But once we went up the
5 escalator there were none. It was just Special Agent
6 Bartolomei and myself.

7 Q. Okay. When you asked Mr. Shafi to get out of the line,
8 was he holding anything? Did he have anything with him?

9 A. He was carrying his bags, I recall.

10 Q. Do you recall how many bags there were?

11 A. Two.

12 Q. Okay. If you recall can you describe what those bags
13 looked like?

14 A. I know one was a carry-on bag and I believe the other was
15 a backpack.

16 Q. What happened when you got to the top of the escalator?

17 A. We explained who we were and that we'd like to discuss and
18 talk to him about his travel. Just, you know, informed him
19 that he was not going to be traveling that day and we would
20 like to talk to him further. We explained that there was an
21 FBI office within the airport that we could go to or that we
22 could talk in the concourse, and he agreed to go to the office.

23 Q. Did he have any questions about whether he'd be able to
24 get on his flight?

25 A. I don't recall.

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1 Q. How far away was the FBI office that you went to?

2 A. So the FBI office is located in between the -- it's
3 outside of security but it's in between the two international
4 terminals. So between the G terminal and the A terminal.

5 Q. About how long of a walk is that?

6 A. Five to seven minutes, if that.

7 Q. And you guys walked over to the office?

8 A. We did.

9 Q. You talk about anything on the way?

10 A. I did not, no.

11 Q. At some point that day did you talk to Adam Shafi?

12 A. Yes. Once we got to the office we went in and conducted a
13 consensual interview in the FBI interview room.

14 Q. Let me ask you this. Who was there initially for that
15 interview?

16 A. Initially it was myself and Glen Bartolomei. Special
17 Agent Glen Bartolomei.

18 Q. Were you expecting anyone else to join you?

19 A. Yes. We had contacted Special Agent Chris Monika and so
20 he was en route from the San Jose FBI office.

21 Q. Okay. At some point did Special Agent Monika join you?

22 A. Yes.

23 Q. Let me ask you about the discussions you had with Adam
24 Shafi before Special Agent Monika got there. What did you guys
25 talk about?

1 **A.** We asked him what his travel plans were. He had purchased
2 a one-way ticket to Istanbul, Turkey. We asked him why he was
3 going to Turkey. He explained to us that he was discouraged
4 with sort of the direction of the country and the politics. He
5 had mentioned that there was a recent court decision involving
6 gay marriage. And so he just wanted to go somewhere where he
7 was -- he felt more comfortable where there was -- Muslims were
8 the majority.

9 **Q.** Okay. Okay. Did you ask him anything about what he was
10 planning to do once he got to Turkey?

11 **A.** Yes.

12 **Q.** What did he say?

13 **A.** He said he was planning to go and help the -- he was
14 concerned about the Syrian refugees, the large amounts that
15 were crossing the border, so he was planning to help them any
16 way he could.

17 **Q.** Did he -- did you ask him about how he was planning to
18 subsist or survive when he got there?

19 **A.** He had some -- he had some money with him, but he was
20 planning on just seeking out assistance. He also had a
21 background in web development so he was, you know, potentially
22 going to do that, as well.

23 **Q.** Did he talk about any alternative places to go besides
24 Turkey?

25 **A.** Yes.

1 Q. What did he talk about?

2 A. He mentioned if things didn't work out in Turkey he could
3 always go to Egypt. He had family there and knew the language.

4 Q. Did you ask him at all about whether he had been to Turkey
5 before?

6 A. We did.

7 Q. What did he say?

8 A. He said he had.

9 Q. Did he talk at all about that prior trip?

10 A. Yes. He said that he had been to Turkey a year prior with
11 a friend of his and that they were there only for a couple of
12 days.

13 Q. Did he say why he returned after a couple of days?

14 A. He had his possessions stolen while he was in Turkey so --

15 Q. Did he identify what possessions were stolen while he was
16 in Turkey?

17 A. Laptop, money.

18 Q. Did you talk at all about whether anyone knew he was
19 traveling that day?

20 A. Yeah. We asked him if anybody else knew of his travel
21 plans. He stated no. He said if his family would have known
22 they would have tried to talk him out of it and convince him
23 not to go.

24 Q. Did he mention his car at all?

25 A. Yes.

1 Q. What did he say about his car?

2 A. We'd asked him how he got to the airport. He said that he
3 had --

4 THE COURT: You want to slow down just a little bit.

5 THE WITNESS: Sorry.

6 BY MR. HASIB:

7 Q. You're not from New York by any chance, are you?

8 A. No. So he had mentioned that he had driven to the BART
9 station in Fremont and then taken BART over to SFO.

10 Q. Did you ask him at all whether he was surprised that you
11 and Special Agent Bartolomei had approached him and pulled him
12 out of the line?

13 A. Yeah. He mentioned that he had had a dream that the FBI
14 was going to do that. When we asked him why, he said that he
15 couldn't elaborate. He wasn't sure why. He had told us that
16 he thought his family had contacted the authorities and that's
17 the reason why we were there.

18 Q. Do you know why he was being paged over the intercom at
19 the airport? Did you ask for him to be paged?

20 A. I did not.

21 Q. Did he tell you about how he bought his ticket?

22 A. Yeah. He said he had purchased his ticket online through
23 a website called Fare Compare.

24 Q. Did he tell you when he bought his ticket?

25 A. A couple of days prior.

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1 Q. At some point did Special Agent Chris Monika join you?

2 A. Yes.

3 Q. About how long was it from the point where you got to the
4 FBI office to the point where Special Agent Monika joined you?

5 A. I would say approximately an hour.

6 Q. What happened after Special Agent Monika joined you?

7 A. Special Agent Monika showed up. At that point, Special
8 Agent Bartolomei had left the room. And Special Agent Monika
9 introduced himself, explained who he was, and that he wanted to
10 ask him some questions. He stated that some of these questions
11 may be redundant to what he had just answered but, you know, he
12 would like to speak to him further.

13 Q. And did you participate in that second interview with
14 Special Agent Monika?

15 A. I did.

16 Q. And what -- was Special Agent Bartolomei there, as well?

17 A. Not physically in the room, no.

18 Q. So it was just you and Special Agent Monika and Mr. Shafi?

19 A. Correct.

20 Q. What happened during that second interview?

21 A. During that second interview again he reiterated his
22 desire to leave the U.S. because of the direction of the
23 country and the politics.

24 Q. Did he talk at all about his parents during that second
25 interview?

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1 A. Yes. He stated that his parents would be upset if they
2 knew what he was planning to do. They had wanted him to stay,
3 you know, in the U.S. and, you know, establish himself there
4 before, you know, traveling overseas.

5 Q. Did he say at all where he told his parents he was going
6 that day?

7 A. He had told his parents that he was going to San Francisco
8 State University that day.

9 Q. And did he talk at all about the page at the gate over the
10 intercom? Did he talk at all about why he thought he was being
11 paged?

12 A. I don't recall.

13 Q. Did he -- did you inspect his possessions at any point?

14 A. I did not, but I witnessed Special Agent Monika inspect
15 his belongings.

16 Q. Did you see any cash during the inspection of his
17 belongings?

18 A. Yes. It was in an envelope with a credit card or debit
19 card.

20 Q. Was it counted at all?

21 A. That I do not recall.

22 Q. During the interview did Special Agent Monika ask -- while
23 you were there, were there any questions about other
24 destinations besides Turkey?

25 A. Again, he reiterated that if things didn't work out in

1 Turkey that he would go to Egypt.

2 **Q.** Did Special Agent Monika ask about Syria at all?

3 **A.** He asked if -- Special Agent Monika asked if he was
4 specifically going to Turkey to cross into Syria, and he'd
5 stated no.

6 **Q.** Did Special Agent Monika ask whether he was going to join
7 any terrorist groups in Syria?

8 **A.** Yes.

9 **Q.** Did he identify any particular terrorist groups -- did
10 Special Agent Monika identify any particular terrorist groups?

11 **A.** He did.

12 **Q.** How did Adam Shafi respond to that question?

13 **A.** He responded that he was not going for that purpose.

14 **Q.** Did he say where he lived in the United States?

15 **A.** He stated he lived at home in Fremont.

16 **Q.** And you mentioned a moment ago that you witnessed the
17 search of Mr. Shafi's possessions. What did you see during
18 that search?

19 **A.** So the one bag had clothing items; pants, a jacket,
20 sweater, scarf, shoes, underwear, toiletry items. And then the
21 backpack had the Quran, Islamic prayer book, a book about
22 Islam, a laptop computer, laptop accessories like plugs and
23 cables, a wallet and a cell phone.

24 **Q.** Any further discussion with Mr. Shafi that evening?

25 **A.** Not after that point, no.

1 Q. What did you do next?

2 A. We thanked him for his time. Special Agent Monika asked
3 if he could follow up with him for a follow-up interview at a
4 later date. He agreed. At that point we asked him if he
5 needed any assistance to get back to Fremont. He stated no.
6 He then -- we then escorted him out of the FBI office and
7 walked him to the BART -- to the BART train station.

8 Q. Did you put him on the train?

9 A. Physically, no, but we walked him to the train. So he got
10 on the train himself.

11 Q. You watched him get on the train?

12 A. Yes.

13 Q. Do you know if any agents followed him on the train?

14 A. I believe there were agents on the train, but I did not
15 see them.

16 MR. HASIB: No further questions for this witness,
17 Your Honor.

18 THE COURT: All right. Why don't we take our first
19 break of the morning. So we'll come back at quarter of 10.

20 Please remember all of the admonitions. Don't talk about
21 the case with anybody, don't do any research, and I'll see you
22 in 15 minutes.

23 (Recess taken at 9:30 a.m.)

24 (Proceedings resumed at 10:45 a.m.)

25 THE COURT: Please be seated, everybody.

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1 Mr. Matthews, cross-examination?

2 **MR. MATTHEWS:** Your Honor, the defense has no
3 questions for Mr. Mauro.

4 **THE COURT:** All right. Mr. Mauro, you're excused.
5 Thank you.

6 (Witness excused.)

7 **MS. LaPUNZINA:** The government calls Special Agent
8 Michael Mansuy.

9 **MICHAEL MANSUY,**
10 called as a witness for the Plaintiff, having been duly sworn,
11 testified as follows:

12 **THE CLERK:** Be seated. And if you would please state
13 your full name for the record and spell it for the court
14 reporter.

15 **THE WITNESS:** Sure. My name is Michael Mansuy. Last
16 name is M-A-N-S-U-Y.

17 **DIRECT EXAMINATION**

18 **BY MS. LaPUNZINA:**

19 **Q.** Good morning.

20 **A.** Morning.

21 **Q.** Would you please tell the jury what you do for a living?

22 **A.** Sure. I'm an FBI agent.

23 **Q.** What is your title with the FBI?

24 **A.** I'm a special agent with the FBI.

25 **Q.** How long have you been a special agent with the FBI?

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1 **A.** I joined the FBI in October of 2003.

2 **Q.** What did you do prior to working for the FBI?

3 **A.** I was an accountant. I'm a CPA, licensed in the state of
4 New Jersey. And I was also a software developer.

5 **Q.** What assignments have you had at the FBI since you joined
6 in 2003?

7 **A.** Okay. I graduated the FBI academy in February 2004 and
8 was assigned to the San Jose resident agency which is,
9 basically, a sub-office out of the main San Francisco field
10 office. I was assigned to a counterterrorism squad. So I
11 started there February of '04.

12 **Q.** Have you always had the same assignment since 2004?

13 **A.** No. I worked on that squad until about the end of summer
14 2010, at which point I transferred squads to the cyber squad
15 and I've been on that squad since.

16 Also in 2013 I became an on-the-job trainee with our
17 regional computer forensics laboratory which is --

18 **Q.** What is that?

19 **A.** I'm sorry.

20 **Q.** Would you please explain what that is?

21 **A.** Sure. It's a public/private partnership between the FBI
22 and local law enforcement agencies where we perform computer
23 forensics work so the local agencies can bring in their own
24 cases and you kind have this group atmosphere to work on that
25 stuff together.

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1 Q. What are your general duties and responsibilities as a
2 special agent on the cyber squad?

3 A. So on the cyber squad we mainly investigate
4 foreign-government sponsored hackers that are trying to break
5 into government agencies, educational institutions, private
6 sector companies. Mostly, they're motivated by political --
7 for political advantage, economic advantage, intellectual
8 property theft, and that sort of thing.

9 Q. What training did you receive in order to know how to
10 perform these duties?

11 A. So the FBI -- it kind of -- so the FBI makes available
12 both internal and external training. So there are courses I've
13 taken for computer forensics internally through the FBI, and
14 I've also taken those courses through third-party providers.
15 In addition to the computer forensics courses, I've also taken
16 cyber security courses that deal with malware intrusions and
17 things like that.

18 Q. Did you ever receive more generalized training in terms of
19 how to be a special agent with the FBI?

20 A. Yes, yes. That starts at the FBI academy when you first
21 join, and the training continues throughout.

22 Q. Drawing your attention to July 3, 2015, were you assigned
23 to work on the execution of a search warrant that day?

24 A. Yes, I was.

25 Q. Had you participated in searches prior to that day?

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1 A. Yes, I have.

2 Q. Approximately how many?

3 A. I've been with the for FBI almost 15 years. I've probably
4 been involved with a few searches a year. So I'd say
5 conservatively somewhere between 20 and 50.

6 Q. Do you recall what locations were being searched on that
7 day, July 3, 2015?

8 A. Yes. We were at the residence located at 560 Pilgrim Loop
9 in Fremont, California. And there was a vehicle parked out
10 front, and also the residence.

11 Q. And what type of vehicle was subject to the search that
12 day?

13 A. It was a white Toyota Prius.

14 Q. Did you have a specific assignment for the searches that
15 day?

16 A. Yes.

17 Q. What was your assignment?

18 A. I was the assistant to the photographer.

19 Q. Is that your regular assignment on search warrants?

20 A. Not necessarily.

21 Q. And would you please explain how you get assigned roles
22 for search warrants?

23 A. Sure. Sure. So at the FBI academy we're all trained to
24 perform all the different roles during a search warrant, search
25 operation. And since I don't work on the squad that

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1 investigated this matter, generally they will ask for help.
2 They'll say, Hey, we have this search warrant scheduled for
3 next week, is anyone available to help out? And so you,
4 basically, raise your hand and say, I'm available. And so I
5 was assigned.

6 **Q.** You can take a minute to catch your breath there if you
7 want a drink of water?

8 **A.** So I was assigned to be the assistant. It's kind of --
9 it's not like I have any special skill to be the assistant to
10 the photographer. Any of us can do the job.

11 **Q.** Are you asked to participate in searches sometimes because
12 of your computer skills, the assignment you've had since 2010?

13 **A.** Yes. So as part of my training that I've had, I'm trained
14 to deal with electronic evidence, or digital evidence as we
15 call it. So, yes, so having me out on a search is helpful as
16 we encounter electronic devices like computers and phones and
17 laptops and things of that nature.

18 **Q.** And so you explained that you were the assistant to the
19 photographer on this particular search?

20 **A.** Yes.

21 **Q.** Would you please explain to us what your duties and
22 responsibilities are as the assistant to the photographer?

23 **A.** Sure. So as the assistant to the photographer -- or you
24 could call me the logger -- I keep a log of every photograph
25 that's taken during the search. And so, basically, I walk with

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1 the photographer throughout, and every shot he takes I jot down
2 a brief description of what that is and a number of what
3 photograph that was.

4 **Q.** Would you please describe the process by which pictures
5 are taken during the course of a -- of this particular search?

6 **A.** Sure. So photographs are taken, basically, in three
7 phases. And we always work from the outside of the residence
8 inward.

9 And so we start with what we call exterior or entry photos
10 and we work from the outside the house working in. And we'll,
11 basically, walk through the house taking photographs. And the
12 whole point of which is to capture the state of the residence
13 as we found it, or the state of the Toyota Prius as we found
14 it.

15 Once that's complete, the search team will then come in
16 and start their search procedures. Throughout those procedures
17 if there is an item of evidence they would like photographed,
18 or it's something we can take a photograph of without having to
19 physically seize it and take it with us, it accomplishes the
20 same effect. We'll take a photograph of that item. Then we'll
21 take a photograph of those items found in place. By "in place"
22 I mean where it was -- the location where that item was found.

23 Once the search is complete and the search team has now
24 taken the evidence outside of the residence, we'll go into the
25 third phase which are just exit photos. Which is, basically,

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1 the same as entry photos. And that's just to capture the
2 condition of the residence as we left it to the occupants.

3 **BY MS. LaPUNZINA:**

4 **Q.** Did you follow that same search protocol on July 3, 2015;
5 starting from the outside and working your way into the house?

6 **A.** Yes, I did.

7 **Q.** How long did the search last that day, approximately?

8 **A.** That's a good question. I'm going to -- somewhere in the
9 neighborhood of four hours or so. I don't exactly recall.

10 **Q.** Did you have an opportunity to see every part of the house
11 as it was searched that day, either in the pre-search
12 walk-about, during the search, or in the post-search photos?

13 **A.** Yes. I walked with the photographer, yes.

14 **Q.** So is it fair to say you walked through the house several
15 times that day?

16 **A.** Yes.

17 **Q.** As a result of your involvement, then, in the search, are
18 you familiar with the layout of the house?

19 **A.** Yes, I am.

20 **Q.** So if you could please look in the binder in front of you
21 there's an exhibit marked as Exhibit No. 64.

22 **A.** Okay.

23 **Q.** And also in that binder you should have something that's
24 tabbed as Exhibit 65. Is that right?

25 **A.** Yes. I see that.

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1 **Q.** So would you please tell us just generally speaking what
2 Exhibit 64 is?

3 **A.** Let's see. 64 is the Toyota Prius that was located
4 outside the front of the residence. It was parked on the
5 street.

6 **Q.** If you would just tell us generally, we'll have a chance
7 to go through individual pictures. But generally speaking,
8 have you had a chance to look at Exhibit 64 prior to testifying
9 today?

10 **A.** Yes. Yes, I have.

11 **Q.** And are these pictures of the search of the car and the
12 residence on July 3, 2015?

13 **A.** Yes, they are.

14 **Q.** And do these pictures -- again, you've had a chance to
15 look at every single picture prior to testifying?

16 **A.** That's correct.

17 **Q.** Do they fairly and accurately show what the house and car
18 looked like before, during, and after the search on July 3,
19 2015?

20 **A.** Yes, they do.

21 **Q.** Thank you.

22 **MS. LaPUNZINA:** The government would offer Exhibits
23 64-003 through 64-113 -- these are all pictures -- into
24 evidence.

25 **THE COURT:** Any objection?

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1 **MR. FAKHOURY:** May I have one minute, Your Honor?

2 What were those numbers again?

3 **MS. LaPUNZINA:** 64-003.

4 **MR. FAKHOURY:** Through 113.

5 No objection.

6 **THE COURT:** All right. They're admitted.

7 (Trial Exhibits 64-003 through 64-113 received in
8 evidence)

9 **BY MS. LaPUNZINA:**

10 **Q.** Now showing you what has been marked as Exhibit No. 65-013
11 through 014?

12 **A.** Okay.

13 **Q.** Would you please tell the jury generally what this is?

14 **A.** That is a sketch of the residence. A hand-drawn sketch.

15 **Q.** And would you tell us what the process is for drawing a
16 sketch of the residence during a search?

17 **A.** Sure. Like myself, someone was assigned to be the
18 sketcher. And after the entry photographs are taken and during
19 the search process, the sketcher will walk the premises and,
20 basically, draw a diagram that represents the layout of the
21 residence. It's not drawn to scale and it's not designed to
22 find every nook and cranny in the house. It's a general
23 representation of the layout.

24 **Q.** And does this Exhibit 65-013 through 14, does it
25 reasonably accurately depict the layout of the house on July 3,

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1 2015, based on your familiarity with it during this search?

2 **A.** Yes, it does.

3 **MS. LaPUNZINA:** The government offers 65-013 through
4 014 into evidence.

5 **THE COURT:** Any objection?

6 **MR. FAKHOURY:** No, Your Honor.

7 **THE COURT:** It's admitted.

8 (Trial Exhibits 65-013 and 65-014 received in evidence)

9 **MS. LaPUNZINA:** Thank you. If I could ask, Ms. Yee,
10 if you could display 65-013.

11 Thank you.

12 **BY MS. LaPUNZINA:**

13 **Q.** Would you please tell the jury what this is?

14 **A.** Sure. This is the first floor of the residence.

15 **Q.** And just generally speaking, can you walk us through the
16 first floor of the residence?

17 **A.** Sure. Sure. So if you -- okay. It turned.

18 As you approach the residence, there's a staircase that
19 goes up to a set of doors. And that's the front door. And
20 when you walk through that front door there is a sitting room
21 off to the right that had some chairs, couches. There was a
22 piano. And as you walk in through the front door, directly in
23 front of you you would see a winding staircase that goes up to
24 the second floor.

25 If you were going to go to your left you would be looking

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1 at a dining room. And if you made another left, you would
2 enter this short hallway where you would find a bathroom, a
3 bedroom, a laundry room with a walkway that goes into a garage.
4 The garage was converted into a living space.

5 **Q.** If we could please go to the next page, 014. And if you
6 could please tell us what's depicted in this picture.

7 **A.** Sure. This is the second floor of the residence. And off
8 to the right there you see stairs to floor. That's that
9 staircase I mentioned just before. As you come up that
10 staircase, the first thing you'll see is an office. And off to
11 your right would be a master bedroom and bathroom. And to your
12 left would be a short hallway that had a bedroom, a bathroom,
13 another bedroom, and another bedroom.

14 **Q.** So now we're going to turn to the pictures that you have
15 in the binder before you.

16 Ms. Yee, if you could please show Exhibit 64-003.

17 Would you please tell us what this is?

18 **A.** Sure. This is the Toyota Prius that was parked out front.
19 This is the exterior picture of the front of the car.

20 **Q.** Would you like a minute to find it in your binder or will
21 you follow along in our --

22 **A.** I can follow along here. That's fine.

23 **Q.** Ms. Yee, if you could please go to 64-006. And what is
24 this?

25 **A.** That is the rear exterior of the Toyota Prius.

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1 Q. So are these the "before" pictures of the car?

2 A. Yes. These would go along with that entry photo process I
3 mentioned earlier.

4 Q. Ms. Yee, Exhibit 64-017, please.

5 What is this?

6 A. That is the front door.

7 Q. And the next picture, please. 018.

8 A. That is the staircase that I mentioned. Once you walk
9 through the front door, that's the first thing you see is the
10 staircase. And off to the right is that sitting room. You can
11 see the piano there on the right-hand side. If you made a
12 quick left you would find the dining room. And button hook a
13 little more to your left, you'd find hallway that goes
14 bedrooms, bathrooms, and the garage.

15 Q. Ms. Yee, if you could please go to 64-037 and then we'll
16 go through --

17 So starting with 64-037, would you please tell us what
18 this is depicts?

19 A. Sure. This is -- when you come up the stairs, I mentioned
20 before the first thing you'll see is the second floor office.
21 That's what we're looking at there. It's an office that has
22 lots of electronics in it.

23 Q. And it looks like it has two desks in there?

24 A. Yes. Two desks.

25 Q. So showing you the next picture, 038, is this now a

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1 close-up of one of the desks in there?

2 **A.** I'm looking at 063 -- oh, sorry. I'm looking at the wrong
3 number. I apologize. That is a close-up of one of the desks,
4 yes.

5 **Q.** And the next picture, please. And what is this?

6 **A.** This is a close-up of another desk.

7 **Q.** And the next picture please?

8 **A.** And that is a close-up of -- I guess a coffee table with
9 two laptops and a lamp on it.

10 **Q.** Have these three pictures shown us the number of work
11 stations that were in that office space on the second floor?

12 **A.** Yes.

13 **Q.** Now showing you picture Exhibit No. 64-047. Would you
14 please tell us where this picture was taken?

15 **A.** This was a picture taken upstairs as you come up the
16 stairs and you go to your left. Remember when you come up the
17 stairs you're looking at the office. If you go to your left
18 there's a hallway. And as you go down that hallway on the
19 left-hand side is the first bedroom, and that's the room that
20 was identified as Mr. Shafi's room.

21 **Q.** Would you please tell us -- if you could leave it up.
22 Please. If you could go back to that same picture. 047.

23 Would you please describe what you found in the room. And
24 is this picture -- is this a "before" picture?

25 **A.** Yes. This is an entry picture. This is the room as we

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1 found it. This is the first photo of the room we took.

2 Q. And if you could explain to us during the course of a
3 search do you ever have a reason to move anything in a room?

4 A. No. No. As we find items we may -- if there's documents
5 scattered around the room we may push them together to take one
6 picture of all the documents together. But other than that,
7 no, we don't move furniture or anything, no.

8 Q. So this is the condition of the room as it was when you
9 first arrived.

10 A. Yes.

11 Q. And were any electronics found in the room, meaning
12 laptops or computers?

13 A. There were no laptops or computers found in the room.
14 There were some cell phones, if I remember correctly. I think
15 you see one of them on the floor there.

16 Q. Now, Ms. Yee, if you could please show Exhibit 64-061.
17 And then we'll proceed slowly until 071.

18 If you could please tell us what Exhibit 64-061 is.

19 A. That is the underside of a MacBook Pro laptop computer,
20 focusing on the serial number.

21 Q. Now, can you tell us where this Apple laptop computer was
22 found?

23 A. Sure. This computer was found in the second floor office
24 that we looked at before. It was in the picture that had the
25 nightstand with the lamp on top. There were two laptops

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1 positioned on there. So that was one of them.

2 Q. One second. Maybe we can go back to that picture quickly
3 if I can find it.

4 So 64-040.

5 Do you see it in that picture?

6 A. Yes. It's the laptop in the rear of the table.

7 Q. All right. Thank you. So if we could go back, then, to
8 061. Why did you take this picture?

9 A. Just to further identify the laptop.

10 Q. If we could please go to the next one.

11 And would you please -- we're going to go through a series
12 of pictures here, about ten pictures. If you could walk us
13 through them.

14 A. Sure. Sure. No problem.

15 Q. So what is this picture?

16 A. Okay. So this is a picture of that laptop with the screen
17 open. There's a log-in screen there. It requires a password
18 to go any further.

19 Q. Are you familiar with Apple laptop products?

20 A. I am familiar.

21 Q. And what's your familiarity based on?

22 A. I use them both personally and professionally.

23 Q. So when you saw this -- when you saw the Apple laptop in
24 the residence, what did you decide to do in terms of how to
25 search it or if to search it?

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1 **A.** Okay. So the laptop was identified as either belonging to
2 or being used by Mr. Shafi. It was in a sleeping state when we
3 found it. The lid was closed. And so when you have a computer
4 that's on, you want to preserve whatever evidence is currently
5 on there. Because once you shut it off, you may lose all of
6 that.

7 So we opened the lid, because we knew it was asleep, and
8 we acquired the password. The password was provided to us.

9 **Q.** So if we could stop. This picture shows what happened
10 just when you opened the lid, right? That's it?

11 **A.** Yeah. When we opened the lid, this is what comes up.

12 **Q.** If we could go to the next picture, please.

13 And what is this a picture of?

14 **A.** The password.

15 **Q.** Where did you get this from?

16 **A.** I don't recall. It was provided to me.

17 **Q.** All right. Next picture, please.

18 Now if you could please explain how you got to this
19 screen.

20 **A.** Sure. Once we entered the password, the screen unlocked,
21 and this was what was on the screen. It's a -- it's Chrome
22 browser with five tabs open.

23 **Q.** And what did you do next?

24 **A.** So what we did was we clicked, basically, through each tab
25 and took a picture of it because we knew that we were going to

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1 seize this item and we would then have to power the laptop
2 down. And once you do that, you're going to lose whatever's on
3 the screen.

4 **Q.** And what did you do with -- if you could please --

5 I think it's hard to read on this one what the tabs are.
6 Are you able to tell what the tabs are or should we go to the
7 next page?

8 **A.** We can go to the next page.

9 **Q.** So if you could please tell us then what happened next.

10 **A.** Sure. So we took a picture of the top right corner.
11 You'll see it has the time and date. That's kind of something
12 we do to kind of show the date and time of when this activity
13 occurred. Our activity meaning what we -- the pictures we
14 took.

15 Like I mentioned before, it had five tabs open, two of
16 which were Turkish Airlines tabs.

17 **Q.** And we see those two tabs right there.

18 **A.** Yes. And then what you're looking at -- oh, I'm sorry. I
19 didn't mean to interrupt. And then what you're looking at on
20 the screen is the inbox of gmail.

21 **Q.** And is there -- are you able to identify whose gmail
22 account this is?

23 **A.** By looking at it, it has the name Adam and it has a photo.
24 Other than that, I can't say exactly whose.

25 **Q.** If we could go to the next picture, please.

1 And what is this now?

2 **A.** This is another one of the tabs. Like I mentioned before,
3 there were two Turkish Airline tabs and two gmail tabs open.
4 This is one of those gmail tabs. And in there we can see email
5 with a subject line "ticket refund" sent from Adam Shafi at
6 that email address to info.sfo.

7 **Q.** And the next picture, please.

8 So we're still toggling through the tabs. Right?

9 **A.** That's what we're doing, yeah.

10 **Q.** Did you do anything other than click the tab at the top to
11 see what the screen was displaying?

12 **A.** No.

13 **Q.** So you didn't do any further search of any of the tabs?
14 You just took a picture of what was there.

15 **A.** No, that would disturb the integrity of the laptop.

16 **Q.** And so what page is this -- what tab is this now?

17 **A.** This was the first tab -- well, the left most tab open in
18 the browser.

19 **Q.** And the next picture, please.

20 And what is this one?

21 **A.** This is -- like I mentioned before, there were two gmail
22 tabs open. So this is the other gmail tab that was open.

23 **Q.** And the next picture, please?

24 **A.** And then this is the Turkish Airlines, one of the two tabs
25 that were open. Looks like a search box looking up the topic

1 of refund.

2 Q. And the next picture?

3 A. And this is another -- this is the other, sorry, I should
4 say -- tab that had the Turkish Airlines information.

5 Q. We saw a few other computers that were in that room. Did
6 you search any of the other computers?

7 A. No, we did not.

8 Q. Why is that?

9 A. Because this was identified as a laptop being used or
10 owned by Mr. Shafi, and the others were not. So we did not
11 touch those.

12 Q. After looking at his laptop and taking these pictures of
13 the screen shots, what did you do next in the search?

14 A. Oh, we -- I think the next picture is a shot of the
15 desktop.

16 Q. We can go to the next picture, please.

17 A. And we're just capturing the time and date so you can,
18 basically, see how much time transpired from the time we
19 started looking at it until the time we stopped looking at it.

20 Q. So based on that review that took just a few minutes to do
21 this process?

22 A. Yes. And then we would shut down the laptop and it would
23 be seized.

24 Q. And did you continue with the search of the residence that
25 day?

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1 **A.** Yes.

2 **Q.** Ms. Yee, if you could please show 64-072.

3 And we're going to go through a few pictures here again.

4 If you could please tell us where this picture was taken.

5 **A.** That picture was taken in Mr. Shafi's room.

6 **Q.** And what did you -- were these items out in the open like
7 this or is this an example of where you moved things to take a
8 picture of everything together?

9 **A.** Yes. These were items found in different parts of the
10 room that were then put together so that we could take one
11 photo of them all together.

12 **Q.** And who makes the decision as to which items are selected
13 to be grouped together like this?

14 **A.** The search team does.

15 **Q.** And can you tell us just briefly what you see there,
16 what's reflected in this picture?

17 **A.** Sure. It looks like there's a canteen bottle. There's
18 something there called a LifeStraw. I think that has some sort
19 of charcoal tablet type thing you can purify water with. I'm
20 not much of a camper. There's also a magnifying glass, nail
21 clipper.

22 **MR. FAKHOURY:** Objection. He has no personal
23 knowledge then.

24 **THE COURT:** Overruled. You can continue.

25 **THE WITNESS:** Okay. Nail clippers. Looks like dental

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1 floss, a whistle. Looks like a pot to boil -- or whatever
2 you're going to use that for. And what's the last thing? A
3 cold pack.

4 **BY MS. LaPUNZINA:**

5 **Q.** If we could go to the next picture, please.

6 Would you please tell us what's in this picture and how it
7 was taken?

8 **A.** It looks like there's -- obviously passport documents
9 here. There are pictures in the little jacket that goes with
10 it. And the white -- the white, large piece of paper on the
11 left-hand side looks like an electronic visa application or
12 document of some sort for Turkey. Republic of Turkey.

13 **Q.** Is this another example of where items in the room were
14 moved in order to take a picture of them together?

15 **A.** Yes.

16 **Q.** The next picture, please?

17 Would you please tell us what this is?

18 I think if you can rotate it we might have a better view.
19 Thank you.

20 **A.** That is a cell phone.

21 **Q.** And was that found in the room?

22 **A.** Yes.

23 **Q.** And all these items were found in the room in which we're
24 taking the pictures?

25 **A.** Yes.

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1 Q. And that's Mr. -- what was identified as Mr. Shafi's
2 bedroom in the house?

3 A. Yes.

4 Q. If we could go to the next picture, please.

5 And what is this?

6 A. A thumb drive.

7 Q. And the next one?

8 A. Looks like a combination of wallet and phone.

9 Q. So to make the record more clear, this is 64-076. Thank
10 you.

11 The next picture would then be 077.

12 Is this a perhaps closer view of the similar picture that
13 we had previously?

14 A. Yes, it is.

15 Q. Of the passport, EV's and papers?

16 A. Yes.

17 Q. And then the next picture would be 078. And if you could
18 please tell us where this picture was taken and what's in it.

19 A. This picture was also taken in the room identified as
20 Mr. Shafi's room. It contains -- looks like the same Turkish
21 visa document and some other papers and documents and
22 notebooks.

23 Q. And if -- Ms. Yee, if you could please show Exhibit 64-112
24 and then 113.

25 Would you please tell us what Exhibit 64-112 is?

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1 A. That is the staircase that goes from the first floor to
2 the second floor.

3 Q. Is this now part of the exit photos after the search?

4 A. Yes.

5 Q. And 113? What is this?

6 A. This is the front door as we left the residence.

7 Q. So was your role on the search that day as the
8 photographer's assistant, are you familiar with how decisions
9 were made in terms of what items to take photographs of or not?

10 A. The search team will dictate what items are -- excuse me
11 -- which pictures are taken of which items basically as we're
12 in there in the house. And they'll call us out and say, Hey,
13 could you come to this room or this location, take a picture of
14 that?

15 Q. And these were just a few of the pictures that you have
16 before you that were taken during the course of this search, is
17 that right?

18 A. Yes.

19 Q. How did the search conclude that day? What happened after
20 you took these exit photos?

21 A. We left the residence.

22 Q. And was any physical evidence taken from the house or the
23 car on that date?

24 A. Yes, it was.

25 Q. And who was responsible for taking custody of the physical

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1 evidence that you took?

2 **A.** That would be the team leader and the finder.

3 **Q.** What is a finder?

4 **A.** The search team has a team leader that's in charge of the
5 whole search. And then there's the finder which is -- kind of
6 takes custody of all the items that were seized.

7 **Q.** Do you know who the finder was for this search?

8 **A.** Yes.

9 **Q.** Who was that?

10 **A.** Special Agent Matthew Sung.

11 **Q.** And was that the extent of your involvement in the search
12 of the car and the residence on that date?

13 **A.** Yes, it was.

14 **MS. LaPUNZINA:** I have no further questions, Your
15 Honor.

16 **THE COURT:** All right. Mr. Fakhoury or Mr. Matthews?

17 **MR. FAKHOURY:** Just need one second to switch it to
18 our computers.

19 **CROSS-EXAMINATION**

20 **BY MR. FAKHOURY:**

21 **Q.** Good morning, Agent Mansuy.

22 **A.** Good morning.

23 **Q.** You mentioned that you were one of the FBI agents who went
24 to Mr. Shafi's home on July 3, 2015, correct?

25 **A.** That's correct, sir.

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1 Q. And your role that day was to be the photographer's
2 assistant, correct?

3 A. That's correct.

4 Q. Okay. And it wasn't -- obviously, it wasn't just you
5 present at the house that day, correct?

6 A. That's correct.

7 Q. There were other law enforcement agents at that house.

8 A. Yes, sir.

9 Q. There were a total of 17 law enforcement officers at the
10 house that day.

11 A. I don't recall the exact number but -- okay.

12 Q. Did you have a firearm with you when you entered the
13 house?

14 A. I did.

15 Q. Now, when the FBI executes a search warrant, they
16 typically don't give the homeowner a heads up that the FBI is
17 coming, correct?

18 A. That's correct.

19 Q. They essentially come as a surprise. Correct?

20 A. That's correct. Okay. Sorry.

21 Q. No. That's okay. I just want to make sure the reporter
22 gets your answer.

23 A. Gotcha.

24 Q. Okay. I want to go through some pictures with you.
25 They're all going to be in your exhibit binder.

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1 A. Sure.

2 Q. Some of the pictures that the government didn't review
3 with you I want to review with you.

4 A. Okay.

5 Q. And so let's start by --

6 Sheree, could you pull up Trial Exhibit 64-022, and it
7 also has the number AS-00047.

8 Okay. Perfect. Thank you.

9 You testified that the garage had been converted into a
10 kind of like a shared space or hangout room. Is that correct?

11 A. I think I said living space, but --

12 Q. Sure. Living space.

13 A. That sounds good.

14 Q. And this is a picture of that garage converted into a
15 living space, correct?

16 A. That's correct.

17 Q. Okay. I'm going to turn your attention to trial Exhibit
18 64-049, or AS-00074. Okay. You recognize this picture,
19 correct?

20 A. Yes, sir.

21 Q. This is a picture from Mr. Shafi's bedroom, correct?

22 A. Correct.

23 Q. Obviously, it's a bookshelf with books on it. Correct?

24 A. Sure. Yes, it is.

25 Q. I'm going to ask you to take a look at Exhibit 64-057

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1 which is AS-00082.

2 You have that in front of you?

3 A. Yes, sir.

4 Q. Okay. This is -- looks like handwritten notes from a --
5 like a spiral bound notebook, is that right?

6 A. That's correct.

7 Q. And this was found in Mr. Shafi's bedroom, as well,
8 correct?

9 A. I believe that was found in the car?

10 Q. Okay.

11 A. I believe.

12 Q. I'm sorry. Go ahead.

13 A. No, I believe that was found in the car, yeah.

14 Q. And the only car that was searched that day was
15 Mr. Shafi's car, correct?

16 A. That's correct.

17 Q. Okay. I'm going to turn your attention to Exhibit 64-090,
18 which is AS-00115.

19 Okay. You have that in front of you?

20 A. Yes, I do.

21 Q. This is obviously a picture of a small handwritten note
22 pad, is that correct?

23 A. That's correct.

24 Q. Okay. And do you remember where this was found?

25 A. I believe that was found in the second floor hallway

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1 across from Mr. Shafi's room.

2 **Q.** Okay. Okay. Now you testified that the photos you took
3 were sort of at the direction of the search team, correct?

4 **A.** Not all of the photos.

5 **Q.** Okay. Which photos were taken at the direction of the
6 search team? I don't need a specific item, but just in
7 general.

8 **A.** Generally speaking, the entry photos are taken by the
9 photographer to capture the state of the residence as we found
10 it. And the exit photos are taken for the same purpose.

11 The photos in between would be dictated by items that are
12 found during the search.

13 **Q.** Okay. So essentially, photos that are taken are because
14 the agents believe there's some evidentiary value to that
15 photo. Is that a safe assumption?

16 **A.** That's a safe assumption.

17 **Q.** Do you speak Arabic by any chance?

18 **A.** No, sir.

19 **Q.** Did the photographer present at the search that day speak
20 Arabic?

21 **A.** I don't think so.

22 **Q.** Do you know if any of the agents at the search that day
23 spoke Arabic?

24 **A.** We have one agent that was on-site. I don't know what his
25 level of proficiency is. But I know he's at least familiar

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1 with Arabic.

2 **Q.** Familiar with Arabic. Okay. But you don't know if he can
3 read or write Arabic?

4 **A.** I don't know.

5 **Q.** Do you remember which agent that was?

6 **A.** Yes.

7 **Q.** Who was that?

8 **A.** Chris Monika.

9 **Q.** Now, I'm going to ask you to take a look at three other
10 pictures. I'm going to ask you to turn your attention to trial
11 Exhibit 64-088, which is AS-00113.

12 Do you have that in front of you?

13 **A.** Yes, sir.

14 **Q.** Where was this picture taken?

15 **A.** That is inside Mr. Shafi's room. If you were standing,
16 say, in the middle of the room, looking out through the doorway
17 into his room, into the hallway.

18 **Q.** Okay. Now, an agent asked you to -- one of the other
19 agents asked you to take -- or, asked the photographer to take
20 this picture, correct?

21 **A.** I believe so.

22 **Q.** And you can't read the Arabic writing in this picture.

23 **A.** I cannot.

24 **Q.** Okay. Let's take a look at Exhibit 64-051 which is
25 AS-00076.

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1 Same sort of questions. This is obviously a picture of
2 Arabic writing. Was this taken from -- in Mr. Shafi's bedroom?
3 This picture? Do you know?

4 **A.** Yes, I believe so. I don't have the log in front of me.
5 That would be helpful.

6 **Q.** Okay.

7 **A.** Is that in this binder?

8 **Q.** I -- that's okay.

9 **A.** The reason I bring that up is I don't know if that's part
10 of the entry photo group or was that a directed photo.

11 **Q.** Got it. No problem. And then one more, which is trial
12 Exhibit 64-053, AS-00078.

13 And again, this is obviously Arabic writing. And you
14 can't read this, correct?

15 **A.** No.

16 **Q.** Do you know where this picture was taken? Do you
17 remember?

18 **A.** I'd have to look at the log.

19 **Q.** Okay that's fine. That's okay.

20 Okay. I want to change topics a little bit. Now, you
21 testified a little bit about a MacBook, an Apple laptop, that
22 was taken from Mr. Shafi's house. And you testified that the
23 laptop required a login, correct? Do you remember that?

24 **A.** Yes.

25 **Q.** And you testified that you'd acquired that password. And

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1 you'd even -- you were shown a picture that had the password
2 written down on that, correct?

3 **A.** I believe I said -- and I don't recall exactly -- but I
4 thought I said it was provided to us.

5 **Q.** Okay. It was provided to you by whom?

6 **A.** I don't recall.

7 **Q.** Okay. There were some pictures about -- of an office that
8 showed a couple different work stations. Do you remember those
9 pictures?

10 **A.** Yes, sir.

11 **Q.** And obviously in those pictures there were several
12 electronic devices in those pictures, correct?

13 **A.** That's correct.

14 **Q.** There were several computers?

15 **A.** Yes, sir.

16 **Q.** Yes? You saw pictures of two cell phones, correct?

17 **A.** Okay, yes.

18 **Q.** Okay? Now, you're trained to be a computer forensic
19 examiner, is that correct?

20 **A.** No.

21 **Q.** Okay.

22 **A.** I am an on-the-job trainee. I'm not a certified computer
23 forensic examiner.

24 **Q.** So you're an on-the-job trainee, but you are sometimes
25 tasked to do -- or run forensics on electronic devices, is that

1 correct?

2 **A.** Yes. Under the supervision of a certified examiner.

3 **Q.** Okay. And in connection to this case, you were asked to
4 do forensic imaging of several items of electronic discovery,
5 correct?

6 **A.** That's incorrect.

7 **Q.** That's incorrect. Okay. You did not image --

8 **A.** One item.

9 **Q.** One item. Okay. What was that item?

10 **A.** An HP laptop.

11 **Q.** So you didn't image an 8 gigabyte memory stick.

12 **A.** No.

13 **Q.** You didn't image three CD's?

14 **A.** No. No, sir.

15 **Q.** Let's start about talking about that HP laptop. Why don't
16 you take a look at Trial Exhibit 064-087 which is AS-00112.

17 Was this the HP laptop you were asked to image?

18 **A.** Yes, I believe so.

19 **Q.** Now, I want to talk a little bit about what it means to
20 image a device just so that everyone has a similar
21 understanding of what we're talking about.

22 To create an image of an electronic device is to
23 essentially copy all of the contents that are on it, is that
24 safe to say?

25 **A.** That's correct.

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1 Q. Okay. And, again, you were asked to image this laptop,
2 correct?

3 A. That's correct.

4 Q. Now, you imaged this laptop because you were told that
5 Mr. Shafi -- Mr. Adam Shafi -- had used this laptop in the
6 past, correct?

7 A. Yes.

8 Q. And so on that same day of the search you -- that laptop
9 was taken by the FBI, correct?

10 A. Yes.

11 Q. Now, did you -- in order to image the laptop, you got to
12 plug it in to other computers and hard drives. So when you
13 imaged this HP laptop, did you image it at Mr. Shafi's home or
14 did you do that at the FBI office?

15 A. At the FBI office.

16 Q. And when you make the image, you're copying every piece of
17 data that's on the computer, correct?

18 A. Yes. It's called a bit-for-bit image.

19 Q. That's what you did with this laptop, correct?

20 A. That is correct.

21 Q. And once you create that bit-for-bit image, that image is
22 available for review by FBI agents if they want to take a look
23 at what's on that computer, correct?

24 A. Well, at that point it's the search agent, whoever's
25 authorized to look at that digital evidence. It's not open to

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1 -- when you're getting into policy, that I don't --

2 **Q.** Okay. Let me ask it this way. You're tasked to create
3 the image, right?

4 **A.** Yes.

5 **Q.** And then you make the image. So you make a copy available
6 for review by other agents if they have proper authorization to
7 review it. Is that safe to say?

8 **A.** Yes. But the image is made and then it's checked into
9 evidence to maintain the chain of custody.

10 **Q.** Okay. And that image sits in evidence and can be checked
11 out by another special agent to take a look at what's on that
12 computer, correct?

13 **A.** Yes. At that point my job is done.

14 **Q.** So you created the image, but you didn't actually look at
15 any of the items on this computer.

16 **A.** No, sir.

17 **Q.** Okay.

18 **MR. FAKHOURY:** Can I have a minute, Your Honor?

19 **THE COURT:** Yes.

20 (Pause.)

21 **BY MR. FAKHOURY:**

22 **Q.** I have one last question. And that is, to your knowledge,
23 none of the agents had the password for the Apple laptop before
24 they came to do the search on July 3. Is that right?

25 **A.** That's my understanding, yes.

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1 **MR. FAKHOURY:** Okay. I have nothing further, Your
2 Honor. Thank you.

3 **THE COURT:** Okay. Thank you.

4 **MS. LaPUNZINA:** One moment, Your Honor.

5 **THE COURT:** All right.

6 (Pause.)

7 **MS. LaPUNZINA:** No further questions, Your Honor.
8 We'd ask that the witness be excused.

9 **THE COURT:** All right. You're excused. Thanks very
10 much.

11 (Witness excused.)

12 **MS. LaPUNZINA:** The government calls Special Agent
13 Zachary Karem.

14 **ZACHARY KAREM,**
15 called as a witness for the Plaintiff, having been duly sworn,
16 testified as follows:

17 **THE CLERK:** Be seated. Would you please state your
18 full name and spell it for the court reporter.

19 **THE WITNESS:** My name is Special Agent Zachary E
20 Karem. Z-A-C-H-A-R-Y, E, K-A-R-E-M.

21 **DIRECT EXAMINATION**

22 **BY MS. LaPUNZINA:**

23 **Q.** Good morning. You've just presented yourself as special
24 agent, so what agency do you work for?

25 **A.** FBI.

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1 Q. How long have you been a special agent with the FBI?

2 A. Eight years.

3 Q. What did you do prior to that?

4 A. United States Marine Corps.

5 Q. How long were you in the Marine Corps?

6 A. Ten years.

7 Q. What is your current assignment with the FBI?

8 A. I work at FBI headquarters for Extraterritorial
9 Investigations, Unit Number 1.

10 Q. How long have you been in that position?

11 A. Seven months.

12 Q. And in laymen terms can you tell us what you do in that
13 current assignment?

14 A. I help manage the FBI's investigative interests overseas.

15 Q. And what was your assignment prior to that position?

16 A. I was a special agent on CT6.

17 Q. What is CT6?

18 A. Counterterrorism squad in San Jose.

19 Q. How long were you assigned to the San Jose squad?

20 A. Approximately seven years.

21 Q. And what was your position on that squad?

22 A. Special agent.

23 Q. What were your general duties and responsibilities as a
24 special agent on the San Jose squad?

25 A. To conduct investigations.

KAREM - DIRECT / LAPUNZINA

1 Q. Did you receive any training in order to carry out your
2 duties as a special agent?

3 A. Yes.

4 Q. Would you please tell us what kind of training you had?

5 A. I attended the FBI academy in 2010, and then I attended
6 the counterterrorism operations course 2011.

7 Q. And during the course of your time on the San Jose squad,
8 did you have an opportunity to participate in searches and
9 arrests?

10 A. Yes.

11 Q. Drawing your attention to July 3, 2015, were you involved
12 in a search at 560 Pilgrim Loop in Fremont, California?

13 A. Yes.

14 Q. What was your role that day?

15 A. I was in charge of taking the subject from the residence
16 to -- taking the subject from the residence for processing and
17 then to the jail.

18 Q. And would you please explain to us what that means?

19 A. So that day, initially the subject was in the custody of
20 the Fremont Police Department.

21 Q. Who is the subject?

22 A. Adam Shafi. And then from that point, Fremont Police
23 Department turned custody of him over to us. The subject
24 requested that he be allowed to pray. So then at that point we
25 took him to the first floor bathroom where he performed a

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1 bathing ritual. And then from that point we took him to an
2 adjoining living room where he performed another prayer-type
3 ritual.

4 And then from that point we took him to the second floor
5 where he assisted the agents in pointing out which electronic
6 devices were his. He provided consent and password for those
7 devices. And then we took him into our vehicle and we took him
8 to the San Jose resident agency for booking procedures.

9 **Q.** What was his -- what was Mr. Shafi's demeanor with you
10 during the time while you were at his house?

11 **A.** He was calm and compliant.

12 **Q.** And approximately how long did it take for you to get from
13 his house to the San Jose office?

14 **A.** Approximately 30 minutes.

15 **Q.** Did you speak with Mr. Shafi during the car ride?

16 **A.** A little bit, yes.

17 **Q.** Did you have any substantive conversation or --

18 **A.** During the car ride, no. No substantive conversation.

19 **Q.** What happened when you arrived at the San Jose office?

20 **A.** We got to the San Jose office. We linked up with a number
21 of other FBI personnel and we took him to our booking room and
22 started putting him through the booking procedures.

23 **Q.** What is -- what are booking procedures? What does that
24 mean?

25 **A.** We input his identifying information into our system. We

1 take fingerprints, DNA samples, and things of that nature.

2 **Q.** Did Mr. Shafi say anything to you during that process
3 aside from responding to the booking questions that you were
4 asking him?

5 **MR. MATTHEWS:** Objection, Your Honor. Based on the
6 302, this may have been the subject that has been addressed in
7 motion *in limine*.

8 **THE COURT:** Is it one that I've overruled that has
9 defense objection on?

10 **MR. MATTHEWS:** Yes.

11 **THE COURT:** All right. Your objection is preserved
12 and you may proceed.

13 **BY MS. LaPUNZINA:**

14 **Q.** Would you like me to repeat that or do you remember the
15 question?

16 **A.** Can you repeat it please?

17 **Q.** The question is whether or not Mr. Shafi said anything to
18 you during the booking process aside from responding to the
19 general questions you were asking him.

20 **A.** At one point we did have a side conversation with -- I had
21 a side conversation with my partner, Special Agent Edel. And
22 we mentioned a subject that we had arrested earlier that year.
23 And his -- the name was Armin Harcevic. At that point, Shafi
24 asked a question. I believe it was to the words effect of, Did
25 he get out? Based upon my recollection I did not -- I did not

1 answer that question. But he said that he knew him and that he
2 was a friend of his.

3 Q. What happened after you finished the booking process at
4 the San Jose office?

5 A. After finishing booking procedures, we placed him back in
6 our vehicle and we drove him to the San Francisco Jail.

7 Q. Did you see Mr. Shafi again after that day?

8 A. Yes.

9 Q. And was that shortly thereafter? Did you transport him
10 again?

11 A. Yes. It was approximately a couple days later we picked
12 him up again and we took him to the -- from the jail to the
13 courthouse.

14 Q. Now, you mentioned earlier that Mr. Shafi was in Fremont
15 police custody. Was this an FBI search or a Fremont police
16 search?

17 A. It was a FBI search.

18 Q. So was Fremont Police Department assisting you on that
19 search?

20 A. Yes. Yes. They were assisting us.

21 Q. And was the FBI solely responsible for his arrest and
22 processing on that date?

23 A. Yes.

24 MS. LaPUNZINA: I have no further questions, Your
25 Honor.

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1 **THE COURT:** All right. Thank you. Mr. Matthews.

2 **CROSS-EXAMINATION**

3 **BY MR. MATTHEWS:**

4 **Q.** Good morning.

5 **A.** Good morning.

6 **Q.** You stated during direct that Mr. Shafi had pointed out
7 his devices during the search.

8 **A.** Yes.

9 **Q.** Did he point them out to you?

10 **A.** Based upon my recollection there were other agents there,
11 and I believe he was pointing them out to two other agents. I
12 was in the room kind of assisting.

13 **Q.** Do you know whether he was pointing them out at their
14 request? I say "their," I mean the other agents.

15 **A.** I believe so based upon my recollection.

16 **Q.** So based on your recollection, you think one of the agents
17 asked him for the password to these devices.

18 **A.** He was asked for the password to those devices, yes.

19 **Q.** And if I remember your testimony correctly, you stated
20 Mr. Shafi gave the agents the password.

21 **A.** Yes, he did.

22 **Q.** Any hesitation in his voice?

23 **A.** No.

24 **Q.** The word -- or the term "counterterrorism" has been banded
25 about a bit during this case. You said you were part of the

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1 counterterrorism squad.

2 **A.** That's correct.

3 **Q.** That wasn't -- being part of the counterterrorism squad
4 wouldn't have been necessary to conduct a search of Mr. Shafi's
5 residence, correct?

6 **A.** To be a part of the search, no.

7 **Q.** Okay. To transport him to the FBI office in San Jose
8 didn't require anybody to be a member of the counterterrorism
9 squad, correct?

10 **A.** Correct.

11 **Q.** And to transport him to San Francisco Jail from San Jose
12 once the booking procedures were completed didn't require any
13 specific training or being a member of the counterterrorism
14 squad, correct?

15 **A.** Correct.

16 **MR. MATTHEWS:** No further questions, Your Honor.

17 **THE COURT:** All right.

18 **MS. LaPUNZINA:** No questions, Your Honor.

19 **THE COURT:** Thank you. You're excused.

20 **THE WITNESS:** Thank you.

21 (Witness excused.)

22 **MR. HASIB:** Your Honor, we're going to go slightly out
23 of order because of travel plans. Government calls Eric Ho to
24 the stand.

25

ERIC HO,

called as a witness for the Plaintiff, having been duly sworn,
testified as follows:

THE CLERK: Get as close as you need to, then if you
would please state your full name and spell it for the court
reporter.

THE WITNESS: My name is Eric Ho. H-O.

DIRECT EXAMINATION

BY MR. HASIB:

Q. Good morning, Mr. Ho. What do you do for a living?

A. I work at Google.

Q. And what's your job title at Google?

A. I'm a legal specialist on our legal investigations support
team.

Q. And what does that mean? What are your job
responsibilities?

A. We handle law enforcement requests for user data. We
comply with requests for data. And I also serve as a custodian
of records.

Q. So when Google receives a request from law enforcement, is
it your office that would respond?

A. Yes.

Q. Okay. Is it your office to figure out whether the right
records are being provided in response to that request?

A. Right. We look at every law enforcement request that

1 comes in. We decide -- you know, and then we handle it whether
2 it's, you know, complying with it or asking for more
3 information. Or pushing back, in some instances.

4 **Q.** Have you, in connection with this case, have you reviewed
5 an exhibit --

6 **MR. HASIB:** If I may approach the witness, Your Honor.

7 **Q.** An Exhibit marked trial Exhibit 115.

8 **A.** Yes.

9 **Q.** I'm placing before you trial Exhibit 115. Do you
10 recognize that?

11 **A.** Yes.

12 **Q.** And how do you recognize it?

13 **A.** I reviewed it prior to today. And there's my initials on
14 the disk.

15 **Q.** Did you review it yesterday?

16 **A.** Yes.

17 **Q.** And put your initials on it yesterday?

18 **A.** Yes. I reviewed it yesterday. And after I reviewed it, I
19 initialed the disk.

20 **Q.** Just generally speaking, what is on that disk?

21 **A.** That disk has the results of a search warrant that we
22 complied with back in 2015.

23 **MR. HASIB:** Your Honor, I would offer Government
24 Exhibit 115 into evidence.

25 **THE COURT:** Any objection?

1 **MR. FAKHOURY:** No objection.

2 **THE COURT:** It's admitted.

3 (Trial Exhibit 115 received in evidence)

4 **BY MR. HASIB:**

5 **Q.** Mr. Ho, if you could just go into a little bit more detail
6 the contents of that disk. What are the files that are on that
7 disk?

8 **A.** So we received a search warrant for a number of Google
9 accounts. And then this disk has a lot of the information that
10 we turned over in response to that search warrant, which
11 includes a multitude of data but includes things like email
12 content, search history -- the content of the users that were
13 requested search history, YouTube search history. I believe
14 there were also photos on the disk. A number of other products
15 that were requested.

16 **Q.** And do you recall the account that was -- that you
17 reviewed last night?

18 **A.** Yes.

19 **Q.** What was that account?

20 **A.** Reflexatron@gmail.com.

21 **Q.** And what files are on that disk with respect to
22 reflexatron@gmail.com?

23 **A.** A number of files -- a lot of the ones I just mentioned.
24 Emails, YouTube search history, Google search history, and
25 there was a linked by account file, subscriber information,

1 amongst other things.

2 Q. I'm sorry. I cut you off. What was the last thing?

3 A. I said amongst other services. But those are the ones
4 that I can recall right now.

5 Q. Okay. Let me ask you first about the email files that are
6 on that disk. Did you review that disk, the email files on
7 that disk, for accuracy?

8 A. Yeah. So one of the things we do is we want to make sure
9 that the data that we're testifying to matches the data we
10 actually produced. So when I say "verify," that's what I was
11 doing yesterday.

12 Q. And did you review the email files for the
13 reflexatron@gmail.com account?

14 A. Do you mean if I verified if they were the ones that we
15 produced?

16 Q. Yes. I'm sorry. Did you verify that those were the files
17 you were the ones that you produced?

18 A. Yes.

19 Q. Can you describe how -- in layman's terms, how do you
20 verify that the file that you reviewed on that disk is the same
21 one that Google produced?

22 A. Yeah. I can do my best.

23 So we run what's called a hash value script. It's
24 essentially a process where we -- when we produce the data, we
25 actually run what's called a hash algorithm on all the files we

1 produce. And then it spits out a hash value file, which is
2 kind of like a unique thumbprint or fingerprint for all the
3 files we produced.

4 And then what I did last night was actually run the same
5 script on all the data on this disk just to make sure that the
6 hash values here matched the hash values we originally
7 produced. Essentially, we want to make sure that the
8 fingerprints here also match the fingerprints on the files that
9 we initially produced.

10 Q. Okay. So with respect to the email files for
11 reflexatron@gmail.com, did that thumbprint, or fingerprint,
12 match between what's on the disk and what was in Googles files
13 originally?

14 A. Yes.

15 Q. You mentioned Google search history. Was there a Google
16 search history file that you reviewed last night?

17 A. Yes.

18 Q. Was that also for the reflexatron@gmail.com account?

19 A. Yes.

20 Q. Just generally speaking, what does Google produce when it
21 produces a Google search history?

22 A. On a very broad basis, it's the records of searches and
23 the resulting clicks as a result of the searches performed
24 whenever -- for a specific user.

25 Q. Does one have to be logged into their Google account in

1 order for that log to be created?

2 **A.** Correct. You have to be logged into your Google account
3 and you have to have our search history service turned on.

4 **Q.** And did you review the Google search history file on --
5 for the reflexatron@gmail.com account; did you compare the
6 thumbprint that's on that disk to the thumbprint that's on
7 Google's files?

8 **A.** Yes. I compared the hash values, the thumbprints, and
9 they matched.

10 **Q.** Okay. And if you could just go into a little bit more
11 detail. What's actually in the Google search history that
12 Google produces? You mentioned search history. What kind of
13 search history do you see in that?

14 **A.** So essentially, when you go to www.google.com, you can
15 search for a variety of things. It's a search engine. So it's
16 -- the search history file's going to show you two main things.
17 The first one is everything that was searched for. So, you
18 know, if you searched for "cute cat videos," it's going to show
19 you like results that happened after you put in that query.
20 And then it's also going to show you what we call "visited."
21 So after you perform your query, you can also click on things
22 on the Google search page and it will show you like websites
23 that were navigated to as a result of the search being
24 performed.

25 **Q.** And how is that differentiated on the files that Google

1 produced in the Google search history? How is it
2 differentiated whether somebody just searched for something
3 versus whether they actually visited something?

4 **A.** If you looked at the file you would see it would be
5 denoted in different ways. So one of them would just simply be
6 called "searched for," and those are all the terms that were
7 searched for. So if you searched for like "oranges or
8 bananas," it would say "searched for bananas and oranges."

9 Then there's a separate line called "visited." And
10 "visited" is actually the pages that were clicked on after the
11 search. And then if you open the file there's actually like in
12 parenthesis a URL that will show you the exact website that was
13 clicked on. It's like in parenthesis right after the "visited"
14 line.

15 **Q.** Does the Google search history record images that are
16 viewed in any way?

17 **A.** Yes.

18 **Q.** And how does it do that?

19 **A.** In the same way. Like we have a Google image search. You
20 can also search for images in the same way. It would also show
21 up the same way. It would say "searched for." And then you
22 could also -- it would kind of show up the same way in search
23 history. It would just be like -- if you clicked the URL that
24 follows the "searched for" line it would actually just take you
25 to an image search instead.

1 Q. What is an image search?

2 A. So an image search is, basically -- on Google, if you look
3 at Google search, it will navigate to websites. And image
4 search will allow you just to search for images. For example,
5 in my previously example if you searched for "cute cats," like
6 just thumbnails of cute cats would appear and you'd be able to
7 click on different things.

8 Q. And how about directions for locations? Does Google track
9 that in the Google search history?

10 A. Yes. So we also have a service called Google Maps which
11 allows you to search for locations. And actually, we have an
12 ability for you to navigate to those locations. It's called
13 "directions to." So if you look at the search history file,
14 there's also a line called "directions to" where after you
15 perform, for example, a map search, you can actually click a
16 button that's usually called "get directions" and it will allow
17 you to get directions to a specific location.

18 Q. And that will be documented in the Google search history?

19 A. Correct. It will show up -- if you ask for directions to
20 a specific location, on that search history file it would say
21 "directions to" and then usually like an address or like, you
22 know, like whatever place you put in.

23 Q. Okay. And lastly, I want to ask you about YouTube. Did
24 you review some files relating to YouTube searches on that disk
25 last night?

1 A. Yes.

2 Q. And how is it that Google was able to produce YouTube
3 searches?

4 A. YouTube is a company owned by Google, so we retain both
5 searches that are done on Google, which we call the Google
6 search history we were just talking about. And we also retain
7 searches performed on YouTube, and that's a separate file that
8 we produce called YouTube search history.

9 Q. And I think this is probably a silly question to ask. But
10 what exactly is YouTube?

11 A. It's like a free video service that we have. It allows
12 users to upload, share, watch videos.

13 Q. Okay. And YouTube has a separate search function distinct
14 from Google?

15 A. Yes.

16 Q. And does Google or YouTube maintain a log of the searches
17 that someone does through YouTube as opposed to Google?

18 A. Yes.

19 Q. Now, did you reviews any YouTube files, any YouTube --
20 sorry -- YouTube search history files on that CD last night?

21 A. Yes.

22 Q. And did you do the same thumbprint analysis or hash value
23 analysis that you did for the other files?

24 A. Yes.

25 Q. And was that YouTube search history file also related to

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1 the reflexatron@gmail.com account?

2 A. Correct.

3 Q. And did the hash values match between what Google produced
4 for that search and what was actually on the CD?

5 A. Yes.

6 MR. HASIB: I have no further questions for Mr. Ho,
7 Your Honor.

8 THE COURT: All right. Mr. Fakhoury.

9 MR. FAKHOURY: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. FAKHOURY:

12 Q. Good morning, Mr. Ho.

13 A. Good morning.

14 Q. You testified about Exhibit 115. And correct me if I'm
15 wrong, but these were records produced by Google --

16 Or let me ask it this way.

17 When did Google produce the records identified in Exhibit
18 115 sitting in front of you?

19 A. I don't remember the exact date that we produced them.

20 Q. Okay. Now, as a custodian of records you're aware that
21 Google has produced records relating to the reflexatron account
22 on several occasions to the government. Do you know that?

23 A. I don't know that off the top of my head. It's possible,
24 though.

25 Q. It's possible. Okay. Let's drill down into that a little

1 bit. You should have a big binder, a trial exhibit binder. If
2 not, I'll get you one.

3 **MR. FAKHOURY:** One second, Your Honor.

4 **THE COURT:** Okay.

5 **MR. FAKHOURY:** May I approach, Your Honor?

6 **THE COURT:** Yes.

7 **MR. FAKHOURY:** Thank you.

8 **BY MR. FAKHOURY:**

9 **Q.** Okay. I'm going to give you this gigantic binder here.
10 And it's open to what's been marked as trial Exhibit 37. Is
11 that the number you have there on the bottom?

12 **A.** Yes.

13 **Q.** Okay. Why don't you take a couple minutes to take a look
14 at that, and let me know when you've had a chance to review
15 that.

16 **A.** Just this page or --

17 **Q.** The whole set of documents behind that tab. Just for 37.
18 (Pause.)

19 **A.** Okay.

20 **Q.** Okay. You've had a chance to take a look at it? Okay.
21 You've had a chance to familiarize yourself with it?

22 **A.** Yes.

23 **Q.** Okay. So Exhibit 37 is a certificate of authenticity by a
24 Google custodian of records, correct?

25 **A.** Correct.

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1 Q. And it's dated October 20, 2014. Correct?

2 A. The date on the letter is December 15.

3 Q. You're right. I'm sorry. I misspoke. The letter is
4 dated, from Google, is December 15, 2014. Correct?

5 A. Correct.

6 Q. And it's -- this is indicating that Google produced
7 records to the FBI based on a court order issued in October of
8 2014. Correct?

9 A. Correct.

10 Q. Okay. I'm going to ask you to take a look now at Exhibit
11 38 in that same binder.

12 A. Okay.

13 Q. Okay. And you've had a chance to familiarize yourself
14 with that are exhibit?

15 A. Yes.

16 Q. Okay. And this is essentially the -- very similar, right?
17 It's a certificate of authenticity from a Google custodian,
18 correct?

19 A. Correct.

20 Q. And that signifies that Google produced records on the
21 request of the government. Correct?

22 A. Yes.

23 Q. Okay. And that requires a search warrant, right?

24 A. Yes.

25 Q. So Google was presented a search warrant by the FBI,

1 right?

2 A. Yes.

3 Q. And as a result of that search warrant, Google produced
4 records to the FBI.

5 A. Correct.

6 Q. And that's what this exhibit indicates.

7 A. Yes.

8 Q. Okay.

9 A. Yeah.

10 Q. Okay. Now, this exhibit is dated August 7, 2017, correct?

11 A. Correct.

12 Q. Okay. So that means that's the date that Google produced
13 the records.

14 A. Yes.

15 Q. All right. And it's referring to a search warrant issued
16 on July 13, 2017, correct?

17 A. Correct.

18 Q. All right. And now, this certificate refers to the
19 reflexatron account that we had talked about earlier with
20 Mr. Hasib. Do you see that?

21 A. Yes. You're talking about the page 3. The certificate?

22 Q. Sure. Yeah. It's referenced on page 3. Right?

23 A. Uh-huh.

24 Q. Okay. Now, this certificate also indicates that there
25 were other Google accounts that the government requested

1 records about, correct?

2 **A.** Correct.

3 **Q.** And specifically it indicates that the FBI requested
4 Google records for an account of the name aqz.khan.niazi. Do
5 you see that?

6 **A.** Yes.

7 **Q.** This certificate indicates that the FBI requested records
8 related to a Google account in the name of mr.niazi.khan. Do
9 you see that?

10 **A.** Yes.

11 **Q.** It also rights indicates that there was a request for
12 records relating to a Google account in the name of
13 saleem1karim1. That's S-A-L-E-E-M-1-K-A-R-I-M-1. Is that
14 right?

15 **A.** Yes.

16 **Q.** And Google produced records related to those accounts,
17 correct?

18 **A.** Yes. Let me check.

19 Yes.

20 **Q.** Okay. So, yes, they did produce records as to all four of
21 those accounts?

22 **A.** Correct.

23 **MR. FAKHOURY:** Your Honor, may I approach?

24 **THE COURT:** You may.

25

1 **BY MR. FAKHOURY:**

2 **Q.** I'm going to show you an exhibit that's not in this
3 binder. This is marked as Defense Exhibit 1010. 1-0-1-0.

4 Why don't you take a look at that and familiarize yourself
5 with that and let me know when you've had a chance.

6 **A.** Okay.

7 **Q.** Okay. You've had a chance to familiarize yourself with
8 that exhibit?

9 **A.** Yes.

10 **Q.** And that is again the same sort of thing. It's a
11 certificate of a custodian of records produced by Google,
12 correct?

13 **A.** Correct.

14 **Q.** It's dated -- Google produced records on December 16,
15 2014, correct?

16 **MR. HASIB:** Your Honor, may I object? Outside the
17 scope of direct. We have no objection to any of these exhibits
18 coming in, if that's easier, rather than simply reading them in
19 the record.

20 **THE COURT:** I understand there's maybe some travel
21 issues. I'll overrule.

22 **MR. HASIB:** Understood.

23 **MR. FAKHOURY:** I'll be very brief.

24 **THE COURT:** That's all right.

25 **MR. FAKHOURY:** Thank you.

1 **BY MR. FAKHOURY:**

2 **Q.** So to -- let me ask my question again. Based on that
3 custodian of record -- that certificate, Google produced
4 records to the FBI on December 16, 2014. Correct?

5 **A.** Correct.

6 **Q.** And those were records relating to the reflexatron
7 account, correct?

8 **A.** Correct.

9 **Q.** Now, you testified about this a little bit with Mr. Hasib,
10 but I wanted to explore this a little bit more. When Google
11 receives a search warrant for the contents of a Google user's
12 account, Google will produce everything that's in the account,
13 correct? That it has access to.

14 **A.** Can you rephrase your question? Do you mean like if we
15 request -- receive a request that has the word "everything" on
16 it? Or do you mean Google will produce everything that's
17 requested to the extent that it exists?

18 **Q.** Well, let me ask it this way: Let's say --

19 Well, let me ask it this way: A search warrant that
20 Google receives directing Google to produce the contents of a
21 Google user's account, that's kind of the baseline we're
22 operating with under here, you got that?

23 **A.** Can you define "content"? Do you mean email content or
24 any content?

25 **Q.** Why don't you tell me. When Google gets a request by the

1 FBI that says "produce records relating to reflexatron@gmail,"
2 what will Google produce?

3 **A.** It will depend on what's requested and whether or not the
4 information requested is, for example, available.

5 **Q.** Okay. Let's say it's search query history. What will
6 Google produce?

7 **A.** If we received a search warrant that said, "Please produce
8 the search history associated with reflexatron@gmail.com," then
9 we would produce that information, you know, as long as the
10 search warrant is valid and all these other checks that we do
11 to make sure that the legal process we're handling is valid
12 legal process.

13 **Q.** Okay. Now, let's say Google receives a request for email
14 information. What would Google produce?

15 **A.** If we received a search warrant that a judge had signed
16 off on, again the search warrant was valid, for email
17 information we would produce the email information.

18 **Q.** What do you mean by "email information"?

19 **A.** It would depend on what's requested. For example, you
20 know, the court order that we complied with prior, what was
21 requested was the email headers. So we would produce the email
22 headers if it was requested. Again, if the request was valid
23 and passed all of our policies.

24 **Q.** Okay. How about with respect to the items in Exhibit 115,
25 the disk that you reviewed before you came to testify today?

1 What was produced by Google in that request? If you recall.

2 **A.** So like I said before, you know, like what I remember is
3 emails, searches -- YouTube search history, Google search
4 history, there's a linked-by file, I believe there were photos,
5 subscriber information.

6 **Q.** Now, let's talk about the email information that Google
7 produced specifically. Did that include headers?

8 **A.** Yes.

9 **Q.** Now, can you explain to the jury what a header is?

10 **A.** Headers are the -- kind of the package information when
11 emails are sent to and from. So, you know, like if I send an
12 email to you, there might be header information that indicates
13 the different ways that email actually traveled from across
14 different servers to get from me to you. It's almost like
15 information behind how messages get from one place to another.

16 **Q.** And Google would also produce the content of the email
17 itself. The body. The message in the email. Is that right?

18 **A.** We will produce what's requested. So if they request
19 emails -- and again, it's a valid search warrant -- we would
20 produce the full emails which would automatically include the
21 headers and the content of the body.

22 **Q.** With respect to items in Exhibit 115 that you produced for
23 your testimony today, that included both the headers and the
24 bodies of the emails.

25 **A.** Yes.

1 Q. Now, you testified on direct that in order for Google to
2 log search history, or to keep track of search history, a user
3 has to be logged into their Google account, correct?

4 A. Correct.

5 Q. And have the search -- and have the function turned on to
6 keep a track of their search history.

7 A. Correct.

8 Q. Okay. Now, a person can be logged into one Google account
9 in multiple locations, right?

10 A. (No response.)

11 Q. Or let me say it in a different way. Let's say you have a
12 person who has a cell phone and a laptop. That person could be
13 logged into their Google account on both their laptop and their
14 cell phone at the same time. Right?

15 A. That's possible.

16 Q. Okay. And a user could be logged in through multiple
17 Google products or programs on the same device at the same
18 time. Correct?

19 A. Can you give an example?

20 Q. Sure. Let's say a person has a cell phone. And they
21 could have a YouTube app installed on their phone and the gmail
22 app installed on their phone. They would be logged into their
23 Google account through both apps at the same time on that one
24 phone, correct?

25 A. Sure. Yes.

1 Q. And similarly on a computer, let's say, a user could be
2 logged into their Google account in both Safari, which is an
3 Apple web browser, and Firefox, which is an alternative web
4 browser. Correct?

5 A. They could be accessing Google services using both
6 browsers, correct.

7 Q. And they could be logged into their account at that same
8 time.

9 A. Theoretically -- I'm actually not too sure. I think
10 that's possible, but I actually don't know.

11 Q. Okay. No problem. I wanted to ask a few very short
12 questions about Android. Google has its own mobile phone
13 software, right?

14 A. Yes.

15 Q. And that's called Android, right?

16 A. Correct.

17 Q. It's sort of like the alternative to the iPhone. Correct?
18 An alternate to the iPhone.

19 A. Sure.

20 Q. In order to use an Android phone, a user has to be logged
21 into their Google account, correct?

22 MR. HASIB: Objection, Your Honor. Now we're getting
23 far outside the scope.

24 THE COURT: I agree. I'm not sure this is the right
25 witness. Sustained.

1 **BY MR. FAKHOURY:**

2 **Q.** Let's talk about YouTube a little bit. You testified
3 about --

4 **MR. FAKHOURY:** Actually, can I have one minute, Your
5 Honor?

6 **THE COURT:** You can. And when you come back tell me
7 whether they're going to be really short and we should take our
8 break, or whether you're going to take awhile in which case we
9 will take our break.

10 **MR. FAKHOURY:** Sure. No problem.

11 (Pause.)

12 **MR. FAKHOURY:** Why don't we take a break, Your Honor.

13 **THE COURT:** Ladies and gentlemen, we'll take a break
14 and we'll be back at 11:30. Please remember the admonitions.

15 (Recess taken at 11:15 a.m.)

16 (Proceedings resumed at 11:30 a.m.)

17 (The following proceedings were held in open court, outside the
18 presence of the jury:)

19 **THE COURT:** All right. Before the jury comes back, I
20 just want to put on the record I notified counsel off the
21 record that one of the alternate jurors realized during the
22 testimony of Mr. Ho that he knew Mr. Ho. And the parties have
23 agreed that this does not pose any sort of an issue with
24 respect to his service as a juror. And so I'm going to ask
25 Ms. Davis just to pass the information back to him that he's

1 got -- to thank him for letting us know, and that there's
2 nothing else that needs to be said unless he has some concern
3 that he'd like to bring to our attention.

4 And with that let's get the jury and the witness.

5 (The following proceedings were heard in open court in the
6 presence of the jury:)

7 **THE COURT:** All right. Please be seated, everybody.
8 Mr. Fakhoury?

9 **MR. FAKHOURY:** Thank you, Your Honor.

10 **BY MR. FAKHOURY:**

11 **Q.** Mr. Ho, I just have two or three more questions. You
12 testified about -- that the Google search records will show
13 that a search was done and that a link was clicked as a result
14 of the search. Do you remember that?

15 Okay.

16 **A.** Yes.

17 **Q.** Let's say someone was doing a Google search on their
18 laptop and they run a search query and they click a link. Now
19 let's say they press the back button on their browser. Will
20 that show up as a second search?

21 **A.** I don't know.

22 **Q.** Okay. I also had a question about -- you testified about
23 directions and Google Map service. A person can do a search
24 within Google Maps, correct?

25 **A.** Correct.

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1 **Q.** So, for example, a person could open Google Maps and type
2 "locksmith," hypothetically. And that would show locksmiths
3 within the location -- close to the location that the user has
4 inputted into the Google Maps.

5 **A.** Correct.

6 **Q.** Okay.

7 **MR. FAKHOURY:** May I have one minute, Your Honor?

8 **THE COURT:** Yes.

9 (Pause.)

10 **MR. FAKHOURY:** I have nothing further. Thank you.

11 **THE COURT:** All right.

12 **MR. HASIB:** May I have just a couple follow-up
13 questions, Your Honor?

14 **THE COURT:** Absolutely.

15 **REDIRECT EXAMINATION**

16 **BY MR. HASIB:**

17 **Q.** Mr. Ho, Mr. Fakhoury asked you about several search
18 warrants while you were on cross-examination. First of all,
19 with respect to your testimony today, did you review one
20 particular response that Google provided to law enforcement?

21 **A.** Yes.

22 **Q.** You didn't review any other responses that Google may have
23 provided over the course of the investigation?

24 **A.** Correct. I didn't review any of the ones that he asked me
25 about other than the one -- the -- sorry, the second one which

1 was the one that we discussed.

2 Q. Okay. And the one that you initialed on that CD.

3 A. Correct.

4 Q. Your title, I think you testified on direct exam, is legal
5 specialist?

6 A. Yes.

7 Q. So do you handle incoming search warrant requests and
8 requests from law enforcement?

9 A. Yes.

10 Q. And does Google -- or, do legal specialists at Google read
11 the specific information that's requested by law enforcement?

12 A. Yes.

13 Q. And do you respond to that information in particular?

14 A. We only turn over what is requested to the extent that we
15 can.

16 Q. Okay. So are there -- would Google produce anything
17 beyond what's requested in the search warrant?

18 A. No.

19 Q. Is it unusual, in your experience, to receive multiple
20 search warrants -- or, orders requesting information in a
21 particular case?

22 A. Not unusual.

23 Q. How about for particular accounts?

24 A. Nope, that's not unusual.

25 MR. HASIB: Your Honor, I have no further questions

1 for Mr. Ho.

2 **THE COURT:** Okay. Thank you.

3 Mr. Fakhoury, anything else?

4 **MR. FAKHOURY:** No, Your Honor. Thank you.

5 **THE COURT:** Okay, Mr. Ho. Thank you. You're excused.

6 **MR. FAKHOURY:** And Your Honor, just one --

7 **MR. HASIB:** Your Honor, the defense, Mr. Fakhoury and
8 the defense team, alerted me that there's a problem with the
9 exhibit list. The exhibit Mr. Ho testified to I referred to as
10 Exhibit 115. It's marked as Exhibit 36 on the exhibit list.
11 So what the government would do is file an amended exhibit list
12 to correct that.

13 So the disk that has been entered into evidence contains
14 the information that is described currently as Exhibit 36 on
15 the exhibit list.

16 **THE COURT:** So the -- you've now confused me. What is
17 described as 115 on the exhibit list?

18 **MR. HASIB:** 115 was a subset of what is on 36.

19 **THE COURT:** I see. Okay. So what Mr. Ho was
20 testifying to was Exhibit 36 and not Exhibit 115.

21 **MR. HASIB:** So we will file an amended exhibit list
22 and swap them.

23 **THE COURT:** And the parties stipulate that that's the
24 state of the evidence, is that correct?

25 **MR. FAKHOURY:** Yes, Your Honor.

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1 **THE COURT:** Excellent. Now you can leave, Mr. Ho.

2 (Witness excused.)

3 **THE COURT:** Exhibit 36 has been entered and not
4 Exhibit 115.

5 **MR. HASIB:** Yes.

6 **THE COURT:** Excellent. Thank you.

7 **MS. LaPUNZINA:** The government calls Special Agent
8 Matthew Sung.

9 **MATTHEW SUNG,**

10 called as a witness for the Plaintiff, having been duly sworn,
11 testified as follows:

12 **THE CLERK:** Be seated. Adjust the mic as you may need
13 to, then if you would please state your full name for the
14 record and spell it for the court reporter.

15 **THE WITNESS:** My name is Matthew Sung. Last name is
16 spelled S-U-N-G.

17 **DIRECT EXAMINATION**

18 **BY MS. LaPUNZINA:**

19 **Q.** Good morning.

20 **A.** Good morning.

21 **Q.** Will you please tell us by whom you're employed.

22 **A.** I'm employed by the FBI.

23 **Q.** What is your position at the FBI?

24 **A.** I'm currently a special agent assigned to a
25 counterterrorism squad.

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1 Q. How long have you been a special agent with the FBI?

2 A. Six years.

3 Q. What did you do prior to that?

4 A. I was a regional manager for a private consulting firm for
5 approximately four years.

6 Q. And what is your current assignment at the FBI? You said
7 counterterrorism?

8 A. Correct. I'm assigned to a counterterrorism squad that's
9 charged with investigating counterterrorism matters and
10 pursuant to any suspected violations of federal law in that
11 regard.

12 Q. Is your squad in San Jose?

13 A. Yes, it is.

14 Q. Would you please describe your current duties and
15 responsibilities as a special agent on that squad?

16 A. So as a special agent on the counterterrorism squad, I am
17 charged with investigating suspected violations of federal law;
18 more specifically related to terrorism matters.

19 Q. And have you been in this assignment ever since you joined
20 the FBI?

21 A. I have.

22 Q. Did you receive any particular training to do this job?

23 A. I did. I went to the FBI academy. It was a 21-week
24 course at Quantico, Virginia. There we received training on
25 some of the essential duties that are expected of an FBI agent,

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1 to include firearms and investigations. And also I attended a
2 two-week counterterrorism course called Counterterrorism
3 Investigation Operations.

4 **Q.** Drawing your attention to 2015, based on what you just
5 said I assume you were in the same assignment at that time?

6 **A.** I was.

7 **Q.** Were you involved in an investigation relating to Adam
8 Shafi?

9 **A.** Yes.

10 **Q.** Would you please describe in general terms what your
11 involvement was?

12 **A.** So as an agent assigned to the counterterrorism squad, I
13 was available to assist the primary case agents for the Adam
14 Shafi case, but I was not one of the primary case agents for
15 that particular case.

16 **Q.** Now drawing your attention in particular to June 30, 2015,
17 did you perform any duties to support the case agents of that
18 case?

19 **A.** I did. On that day the primary case agent was notified
20 that Adam Shafi had been booked to depart on a flight that day
21 to Istanbul, Turkey. At that time, every available agent on
22 the squad departed for San Francisco Airport to intervene. I
23 was there simply to assist in any operational manner deemed
24 necessary by the lead case agent.

25 **Q.** What, in fact, did you end up doing?

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1 **A.** During the course of the interview that was conducted at
2 San Francisco Airport, we determined that Adam Shafi had
3 intended to take the BART train back to his residence in
4 Fremont. We decided that I would follow him home from San
5 Francisco Airport on the BART train to ensure that he made it
6 back to his residence.

7 **Q.** Did you, in fact, do that?

8 **A.** I did.

9 **Q.** Would you please tell us what happened?

10 **A.** Yes. So I visually recognized Adam Shafi as he approached
11 the BART boarding platform.

12 **Q.** How is it that you visually recognized him?

13 **A.** I had seen photographs of him, and I had conducted
14 surveillance operations of him in the past.

15 **Q.** Please continue.

16 **A.** So as he approached the platform, I recognized him. And
17 we waited approximately ten minutes for the next train that was
18 departing. When he boarded the train, I also boarded the train
19 with him and maintained visual on him so that I could see what
20 he was doing throughout the ride back home.

21 **Q.** Approximately what time of day was this?

22 **A.** This was approximately 8:00 p.m.

23 **Q.** Were there other passengers waiting for the train on the
24 platform?

25 **A.** There were several other passengers waiting.

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1 Q. And did you both end up boarding the train when it arrived
2 at the station?

3 A. We did. We boarded at the same time.

4 Q. Did you board through the exact same door? Or if you
5 could please explain how you boarded compared to Mr. Shafi.

6 A. So there were two doors that boarded the same train. I
7 took a different door. But we were in the same car so that I
8 could see him.

9 Q. How far away was he from you approximately?

10 A. I would say somewhere between 20 to 30 feet from me.

11 Q. Did you keep a distance from him on purpose?

12 A. I did. Because I didn't want to raise suspicion that
13 there was somebody who was watching him or following him.

14 Q. Was anybody else with you following him on the train?

15 A. No, there was not.

16 Q. Were you able to maintain eye contact with him during this
17 train ride? Were you able to see him?

18 A. I was able to see him for the duration of the ride.

19 Q. What did you see him do on the ride?

20 A. He sat on the train and I saw him use his cell phone
21 occasionally.

22 Q. Were you able to tell if he received calls or was placing
23 calls?

24 A. I was not able to do that.

25 Q. Could you hear anything he was saying?

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1 **A.** No, I could not.

2 **Q.** Do you know how many calls he took on the train?

3 **A.** No.

4 **Q.** Was the train noisy?

5 **A.** The train was noisy.

6 **Q.** And did you see Mr. Shafi speak with anybody else on the
7 train?

8 **A.** No, I didn't see him interact or speak with anybody on the
9 train.

10 **Q.** Did Mr. Shafi stay on the train until his stop?

11 **A.** We -- his final stop was Fremont station, but we had to
12 transfer trains one time during the course of that ride. I
13 exited the train with him at that time to the platform and
14 waited for the connecting train. During that time I observed
15 Mr. Shafi head downstairs from the platform where we were
16 standing.

17 **Q.** Would that have been a way to exit the station?

18 **A.** It would have been, yes.

19 **Q.** And what happened next?

20 **A.** So I saw him walk down the stairs. I remained on the
21 platform as I was watching him. Once he reached the bottom of
22 the stairs, he looked back up the stairs. And after a few
23 moments, came back up onto the platform. At that point we were
24 still both waiting for the connecting train. When that train
25 arrived we both boarded that train.

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1 Q. Were there other people with you, again?

2 A. Yes, there were.

3 Q. Did you engage Mr. Shafi in conversation --

4 A. I did not.

5 Q. -- at any time during this BART ride?

6 A. No, I did not.

7 Q. Now we're going to show you Exhibit No. 13 which is in
8 evidence, which is an audio file, and a transcript marked as
9 Exhibit 29?

10 MR. HASIB: Ma'am clerk, if we could have the
11 government computer.

12 BY MS. LaPUNZINA:

13 Q. So Exhibit No. 13 in evidence. Would you please tell us
14 if you're familiar with this audio file?

15 A. I am familiar with this audio file.

16 Q. Would you please tell us what it is?

17 A. This is a telephone conversation that took place between
18 Adam Shafi and Ismail Shafi, his brother. This call took place
19 at approximately 8:42 p.m. and was around 18 minutes in
20 duration.

21 Q. And was this on June 30, 2015?

22 A. It was.

23 Q. And you also have what's marked as an exhibit 29 in front
24 of you. Do you have that in your binder?

25 A. I do.

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1 **MS. LaPUNZINA:** Your Honor, we're going to play this
2 call in its entirety. It's not very long. Assuming the audio
3 works this time.

4 **THE COURT:** Okay.

5 (Audio was played but not reported.)

6 **BY MS. LaPUNZINA:**

7 **Q.** So do you know who initiated that call?

8 **A.** Mr. Shafi initiated this call.

9 **Q.** And he called -- the second voice that we hear is his
10 brother, Ismail Shafi?

11 **A.** That's right.

12 **Q.** And is this call taking place while you're on the BART
13 train --

14 **A.** It is.

15 **Q.** -- based on the timing of it?

16 **A.** Yes.

17 **Q.** Are there other indications as to where this call took
18 place, that it was while you were on BART?

19 **A.** There are. You could hear the train in the background and
20 some BART announcements taking place in the background. At one
21 point Mr. Adam Shafi indicates to Ismail that he is on BART at
22 the time that the call takes place. I'm also, since I was on
23 that train, I was aware that at the time this call took place
24 that was also at the BART -- on the BART train.

25 **MS. LaPUNZINA:** Thank you. If you could continue

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1 playing.

2 (Audio was played but not reported.)

3 **BY MS. LaPUNZINA:**

4 **Q.** Drawing your attention to Exhibit No. 14 in evidence,
5 which is another audio file, and a transcript that's been
6 marked as an exhibit, number 30, which should be in your
7 binder. Are you familiar with the call that's reflected in
8 Exhibit 14?

9 **A.** I am familiar with this call.

10 **Q.** Would you please tell us who's on the call?

11 **A.** This is a call initiated by Adam Shafi's friend, Abul
12 Qadar Khan Niazi. This call took place on June 30, 2015, at
13 approximately 9:05 p.m.

14 **Q.** Did this call take place shortly after the call we just
15 listened to?

16 **A.** It did.

17 **Q.** Was this while you were still on BART?

18 **A.** Yes, it was.

19 **MS. LaPUNZINA:** One moment, please.

20 (Pause.)

21 **MS. LaPUNZINA:** This call is shorter. Just shy of
22 four minutes.

23 Ms. Yee, if you could please call Exhibit No. 14.

24 (Audio was played but not reported.)

25

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1 **BY MS. LaPUNZINA:**

2 **Q.** Now, drawing your attention to Exhibit 15, another audio
3 file in evidence, and a transcript marked as Exhibit No. 31.
4 Are you familiar with the call in this exhibit?

5 **A.** I am familiar with the call. This is a call that took
6 place on July 1, 2015. The call was initiated by Adam Shafi to
7 his friend, Saleem Karim.

8 **Q.** So this is the day after the BART ride?

9 **A.** That's correct.

10 **Q.** And have you had an opportunity to listen to this call
11 before?

12 **A.** I have listened to the call and I've reviewed the
13 transcript.

14 **Q.** And approximately how long is this call?

15 **A.** This call's approximately one hour and 22 minutes long.

16 **Q.** I think you just said that Mr. Shafi initiated the call?

17 **A.** That's correct.

18 **Q.** Calling his friend Saleem Karim?

19 **A.** Yes.

20 **Q.** Do you know approximately what time of day this call took
21 place?

22 **A.** It was approximately 2:30 in the afternoon.

23 **Q.** Now we're going to play different sections of this tape.
24 Three sections. The first one is longer. It's approximately
25 35 minutes. The other two sections are much shorter, about one

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1 or two minutes in length.

2 Would you please, before we listen to the call, just give
3 the jury a sense as to what the substance of the conversation
4 is?

5 **A.** Overall, the call was initiated with Adam Shafi recounting
6 to Saleem Karim the events.

7 **MR. MATTHEWS:** Objection, Your Honor. He's talking
8 about substance of the call.

9 **THE COURT:** Sustained.

10 **MS. LaPUNZINA:** If we could please play Exhibit No.
11 15, starting with the first clip, the beginning, until minute
12 35:40.

13 (Audio was played but not reported.)

14 **BY MS. LaPUNZINA:**

15 **Q.** Now Agent Sung, that was just the beginning. The long
16 first 35 minutes of it. We're now going to play two much
17 shorter sections. Was this call continuous?

18 **A.** It was.

19 **Q.** So the next two sections that you're familiar with already
20 from having listened to the call are still part of this same
21 conversation between Adam Shafi and Saleem Karim?

22 **A.** That's correct.

23 **Q.** On July 1, 2015?

24 **A.** Yes.

25 **MS. LaPUNZINA:** So Ms. Yee, if you could please play

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1 the second clip, which is two minutes long. And it's still the
2 same transcript, Exhibit 31.

3 (Audio was played but not reported.)

4 **MS. LaPUNZINA:** Thank you. If we could please move on
5 to the final clip.

6 (Audio was played but not reported.)

7 **MS. LaPUNZINA:** Your Honor, perhaps I'd ask if the
8 Court would like me to break now. The next focus of Agent
9 Sung's testimony relates to the search and some physical items.
10 I'm happy to proceed, or this might be a natural break in terms
11 of shifting the focus of the evidence.

12 **THE COURT:** Okay. I think after listening, maybe a
13 break's in order.

14 So ladies and gentlemen, we'll break for the day.
15 Tomorrow -- thank you for being right on time. If you want to
16 be early, so much the better. And we will start again at 8:00.

17 Please remember the admonitions. The case is moving
18 along, but there's a lot to come. And it's very important to
19 keep an open mind until all of the evidence is in, until the
20 lawyers have explained to you what their perspectives of what
21 that is, and until I instruct you on what the law that relates
22 to this is. So with that, remember those admonitions and have
23 a good afternoon.

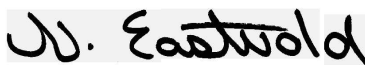
24 (Court adjourned at 12:54 p.m.)

25 ---oOo---

CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript
from the record of proceedings in the above-entitled matter.

DATE: Monday, October 15, 2018



/s/Vicki Eastvold

Vicki Eastvold, RMR, CRR
U.S. Court Reporter